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CRIME PREVENTION AND CRIMINAL JUSTICE IN THE CONTEXT OF DEVELOPMENT: REALITIES AND PERSPECTIVES OF INTERNATIONAL CO-OPERATION

Inventory of comprehensive crime prevention measures

Note by the Secretary-General

1. The Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on item 3 (topic I), of the provisional agenda for the Congress, "Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation", recommended that an inventory of crime prevention measures should be submitted to the Congress. 1/ Close co-operation was maintained with the Helsinki Institute for Crime Prevention and Control affiliated with the United Nations in the preparation of an inventory. A text was submitted in draft form to a group of experts convened in November 1989 with the support of the Home Office of the United Kingdom of Great Britain and Northern Ireland.**

2. The Committee on Crime Prevention and Control, at its eleventh session, considered the text emanating from that meeting. The Committee, in its decision 11/104, 2/ considered the recommendations of the Interregional Preparatory Meeting and recommended that the Economic and Social Council transmit to the Congress a draft resolution*** in which the Congress would adopt the recommendations set out in the annex to the draft resolution, including a reference to the inventory (recommendation 12). The inventory was subsequently discussed and approved by the International Seminar on Practical Strategies for the Prevention of Crime (26 February-2 March 1990), organized in Moscow by the Ministry of Interior of the Union of Soviet Socialist Republics and the Helsinki Institute for Crime Prevention and Control affiliated with the United Nations, the participants including various members of the Committee on Crime Prevention and Control, experts in this field and representatives of the United Nations network of interregional and regional institutes.

3. The text of the inventory is contained in the annex to the present note.

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*A/CONF.144/1.

**Originally prepared at the request of the Institute by Mr. John Graham from the Home Office of the United Kingdom of Great Britain and Northern Ireland.

***Subsequently, transmitted by the council in its resolution 1990/23.

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Annex

INVENTORY OF CRIME PREVENTION MEASURES

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BACKGROUND AND SCOPE

1. The formal processes of criminal justice - apprehension, prosecution, sentencing, punishment and rehabilitation of offenders - have in recent years been shown to have only a limited effect in controlling crime. In many countries, therefore, criminal policy has increasingly focused on developing informal measures to prevent and reduce crime. This inventory brings together the experiences of countries in preventing crime with a view to providing a wide-ranging overview of general strategies and specific measures. While most of them stem from developed countries, further work at the cross-national level will help to review in a more comprehensive way measures which are being applied in the broader United Nations membership.

2. The present inventory is therefore neither prescriptive nor exhaustive: some measures apply only to certain types of offences that are not necessarily prevalent in all societies, and others may require considerable investment in financial and other resources. Many measures, however costly, are not highly technical. The report describes and assesses the strengths and weaknesses of established and emerging approaches to preventing crime, and offers policy-makers and practitioners an opportunity to adopt the most appropriate measures for the particular situations they have to face.

3. The report is divided into four sections. Section I deals with social measures to tackle the root causes of crime and the dispositions of individuals to offend. They may be targeted either at the general population or at specific groups at risk. Section II deals with situational crime prevention, which is primarily concerned with reducing the opportunities to offend. Section III is on community-based crime prevention, which improves the capacity of communities to reduce crime by combining both situational and social measures. Section IV covers the prevention of crime, from the planning of initiatives to their implementation and evaluation. The strategies described in the first three sections are not separate or discrete but interconnected and complementary approaches.

4. Most of the experience gained and most of the successes so far achieved have been in relation to property offences (personal theft, burglaries of homes, commercial and public property, criminal damage etc.). The United Nations surveys of crime trends, operations of criminal justice systems and crime prevention strategies* have shown that, in all countries, property offences form by far the majority of all offences reported. Furthermore, the situations in which such offences as theft, burglary and robbery are committed do not differ significantly from one country to the other, regardless of the stage of development or the cultural, legal or social system. Although the main focus of the inventory is, accordingly, on property offences, the strategies outlined are applicable to other common types of offences, such as street crime, assaults and various kinds of juvenile offences.

I. CRIME PREVENTION THROUGH SOCIAL MEASURES

5. The reasons why people offend are complex and wide-ranging. Two important influences are the degree of restraint on offending (i.e. controls externally imposed upon or internalized by individuals, which deter them from committing offences) and the absence of incentives to be law-abiding (i.e. lack of a personal stake in conforming).

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*For the relevant reports, see A/CONF.121/18 and A/CONF.144/6.

6. Social policy is, and should be, valuable in its own right and should not be justified on the ground of its crime preventive effect. Since, however, some aspects of social policy can have an important effect on crime, these implications need to be acknowledged. Monitoring social trends and government policies and issuing crime impact statements when new social policies are introduced, outlining their possible consequences on crime, can be of help in this respect. A range of social policies may have a bearing on crime. Six areas are cited most frequently: family; education, including policies affecting pre-school children; youth, including recreation, leisure and culture; employment, particularly the creation of employment opportunities; health; and urban and rural development, particularly housing policies. Evidence suggests that regions of the world that do not yet have large and over-populated cities would do well to pursue an urban planning policy that would deliberately limit the size and population of their urban communities, to adopt rural development policies to stem the exodus to towns, and to provide the necessary services and facilities for migrants.

7. Social crime prevention differs from situational crime prevention in at least three ways. First, it focuses primarily on young people, including children. Secondly, it covers a broader but less definable area of crime and, particularly, juvenile delinquency. Thirdly, even if short-term situational crime prevention projects can be tested, crime prevention through social measures is a long-term programme-based approach that is very difficult to evaluate in terms of its direct impact upon crime.

A. Family

8. The ability of families to function effectively is a crucial factor in preventing delinquency. Research has shown that, along with good education and proper employment, stable and emotionally healthy families are powerful sources of effective socialization and social integration. Studies of child development have shown that early troublesome, dishonest and in general antisocial behaviour is an important predictor of later offending and that the structure and functioning of families play a central role in shaping the behaviour of children. The key to preventing delinquency would therefore seem to lie in the promotion of wholesome family life styles and coping skills, and - in case of problems - in measures for early childhood intervention.

9. Children who show early signs of antisocial behaviour are more likely to become serious, persistent offenders than those who begin offending in their mid-teens, who tend to grow out of crime. The former often come from families under severe stress, with multiple social and personal problems, discord and interpersonal conflict. The parents are likely to be of relatively low socio-economic status, to have a criminal record, to exercise harsh and erratic discipline, to neglect their children and to come themselves from similar families. Where children have only one parent, they are even more vulnerable to social maladjustment, especially if the parent is young, socially isolated and dependent on welfare. Low socio-economic status, separation or the fact of having only one parent need not necessarily predispose children to antisocial and delinquent behaviour. It is not the absence of a parent so much as the quality and endurance of the child's relationship with the remaining parent that are important. An unstable family or inadequate parenting can be compensated for by one good relationship outside the family or successful experiences in other areas of socialization, particularly at school.

10. There are limitations on the development of crime prevention policies based on supporting families. Politicians and professionals are sometimes reluctant to interfere in what is a very personal and private area of life.

But a social and material support system is particularly important to avoid criminogenic marginalization and to offset family breakdown or the loosening of family ties.

11. There are several forms of early family intervention that can help to prevent crime. They are summarized in the following paragraphs.

12. Family support programmes. A range of family support systems can be developed to assist parents who find themselves in a difficult situation. In addition to financial and material support, families should be able to avail themselves of child-care services, emergency day-care, health assistance, crisis intervention, counselling and temporary respite schemes, especially for single parents. Child care by trained professionals permits the identification of behavioural problems or child abuse at an early stage and provides an opportunity for informal child-rearing advice. Home support services using outreach workers, based at drop-in or day-care centres, can also furnish informal advice on parenting and home management skills, nutrition and other aspects. Family support programmes, especially if linked to other social services and informal neighbourhood networks, can improve school behaviour and performance, both of which are associated with lower rates of delinquency.

13. Parental guidance and education. Parenting courses can be useful for helping parents to recognize and respond more appropriately to family behaviours that may adversely affect children. They can be taught to respond more constructively, to use discipline less harshly and more consistently and to avoid situations that can precipitate discord. In practice, initial participation rates are often low and drop-out rates high, although both can be improved with financial incentives (i.e. larger family allowances). Some evaluations of parent training programmes have shown limited success in reducing early disruptive and aggressive behaviour; the question as to whether this also results in reductions in later delinquency is more difficult to establish and the evaluations conducted provide no evidence of such results.

14. Pre-school programmes. Pre-school programmes focus on improving the educational achievement, social competence and behaviour of young children from immigrant families, socially and economically disadvantaged families, or children with various difficulties. Two-year programmes for infants have been shown to improve educational achievement, social competence and behaviour in school and, to some extent, to reduce rates of later offending. Where pre-school programmes can be supplemented by special socialization and enhanced educational programmes during primary school, crime prevention may be improved.

15. Other family-based interventions. There are certain stages at which families are naturally placed under greater strain. Specific resources can be used to support families during such periods. Centres providing counselling and advice for parents and voluntary conciliation schemes for families in the process of breaking up are two examples. Difficulties in the family can cause teenagers to leave home prematurely. As a consequence, they may well become homeless and involved in crime, sometimes just to survive. Family and housing policies that reduce the risk and incidence of homelessness and programmes that make provision for those who become homeless are therefore important social crime prevention strategies. If and when a runaway is picked up by the authorities, parents should have the right to be informed that their child is safe. Taking into account the child's right to protection from abusive parents, reasons for leaving home must be carefully examined prior to any decision being taken on his or her possible return to the family. Sensitive procedures for initiating and conducting reconciliation between parent and child should be developed. Special centres with emergency shelter and access to longer-term

hostel accommodation, as well as efforts to reunite runaways with their families and dissuade would-be runaways from leaving home should form the main focus of a strategic response to the problem. Other services, such as counselling, training in survival skills and help in finding employment or alternative means of subsistence, should also be provided for runaways, preferably as part of a multi-agency response. Providing accommodation and other services for them cannot make up for the loss of a stable family environment. The provision of alternative, extended families for high-risk youths, including runaways, can partly compensate for such a loss. An extended family, which may consist of surrogate parents and use peer group pressure to exert discipline and control, can provide a sanctuary in which members can build new relationships, acquire a sense of self-esteem and develop emotional and financial independence. The essence of the extended family concept is to protect young people at risk by linking the stability of family life to the protective elements of education, training, employment and roots in the community. Where decisions are taken to remove a child from his or her parents, efforts should be made to provide suitable alternatives, such as foster parents or adoption, and institutionalization should be avoided as far as possible. In all cases the rights of children to be heard and to have their opinions taken into account should be protected.

B. School

16. Schools represent a powerful influence upon the young. Children spend a great deal of their formative years in various establishments designed to meet their need for education and socialization. Schools, which provide a captive audience for policy-makers, therefore constitute an attractive focus of intervention. They offer opportunities for promoting social equality, cultural pluralism and personal belonging, and for helping young people to acquire moral standards, social skills and a sense of responsibility as citizens. More specifically, they can provide pupils with guidance on their civic duties, the nature of delinquency and the importance of respect for the law, the implications of committing an offence, the workings of the criminal justice system and ways of preventing crime.

17. Pupils who fail or behave disruptively at school, or who are persistent truants, are more likely to offend. The causes of these three problems are not entirely clear, but policies that influence the capacity of schools to minimize their occurrence form the central focus of school-based social crime prevention strategies.

18. School-based prevention strategies that focus upon the treatment of individual pupils may have a limited impact on the reduction or prevention of delinquency and can even be counter-productive. Introducing social learning and life-skill courses into the school curriculum can increase the ability of pupils to anticipate and handle conflicts, including potentially criminal situations, but not on a permanent, long-term basis. The most promising approach to school-based crime prevention is to attempt to change the organization and "ethos" of schools, in other words the history, values, attitudes and practices of school as an institution, which, in combination, give it a unique atmosphere or climate.

19. Social interaction within the school, the school's values and its organizational structure represent the focus of such strategies. A number of features of schooling have been identified by research as important constituents of effective schools, including: (a) the content, range and flexibility of the curriculum; (b) the expertise of the teachers, in terms of both their instructional and their class management skills; (c) the nature of relations between pupils and teachers, and the system of rewards and punishments; and

(d) the integration of teaching, disciplining and caring functions. Schools are effective where there is a high level of commitment and pupil participation, where all pupils succeed in some way or another, where teachers and pupils like and trust one another, where rules are clear and consistently and fairly enforced and where schools accept full responsibility for looking after as well as teaching their pupils. Schools that successfully motivate, integrate and reward their pupils, irrespective of social class, ethnic origin or academic ability, are likely to contribute the most to preventing crime.

20. The schools that are likely to have high rates of delinquency among their pupils are those which, inadvertently or otherwise, segregate pupils according to academic ability, concentrate on academic success at the expense of practical and social skills, categorize pupils as deviants, inadequates and failures, and transfer responsibility for the behaviour and welfare of their pupils to outside agencies and institutions. Schools that permanently exclude their most difficult pupils, or ignore those who persistently fail to attend school, may themselves be contributing to the promotion of delinquency.

21. A range of measures can assist schools in the responsibility for fully integrating those most at risk of offending - the persistent truants, the failures, the most troublesome. Schools should be informed of known truants and special reintegration programmes should be devised to encourage this type of juvenile to come back to school. Locally based teams of peripatetic teachers, skilled in work with difficult children, to be made available to schools, could help to resolve problems of disruptive behaviour within the school or the classroom at the earliest possible stage. It is important that, as far as possible, disruptive behaviour should be tackled within the context in which it arises, without making the child a scapegoat. In some cases, schools may need to review their own organization and "ethos" with a view to changing the internal conditions that give rise to truancy and disruptive behaviour.

C. Youth activities

22. The main object of youth activities is to secure the personal development of the individual through social education, a crucial component of which is to encourage young people to take responsibility for their own actions. Young people should therefore be offered as much scope as possible to participate in and take responsibility for the activities in which they engage. While it can be difficult to maintain a balance between exercising control and allowing young people to manage their own affairs, it is important that they learn to take responsibility for their own actions, including those which amount to breaking the law. With the greater exposure of young people to periods of underemployment or unemployment during the transition to adulthood, cultural and leisure activities have become increasingly important. With limited opportunities for making decisions and taking responsibility in the world of work, young people need to be offered alternative ways of acquiring independence and maturity. The importance of providing diverse and imaginative forms of leisure and cultural activities in a world that increasingly values and encourages passive consumption and creates for many young people unattainable expectations should not be underestimated.

23. Young people need to feel they are useful, appreciated and of value. Projects initiated and managed by young people themselves can help them gain a sense of self-esteem and independence. Sport, music, theatre, dance, literature and other such activities can help them to gain self-knowledge and insights into their worth and their ability to relate to others. As well as relieving their boredom, such pursuits can help to counter ethnic and racial

ignorance and prejudice and to integrate young people into the wider community. One traditional form of activity is the organization of youth clubs. Some clubs tend to experience difficulty in attracting older teenagers and those most at risk of offending; in some cases, they may even become a breeding ground for delinquency. Other forms of youth work, such as information, counselling and advice centres, drop-in centres, skills centres and detached and outreach work, are also unlikely to prevent crime on their own, and should not be expected to do so, but they can be a valuable part of multi-pronged efforts.

24. There are at least five ways in which youth workers, in collaboration with young people, can contribute to crime prevention. They can: (a) identify peer group networks and patterns of behaviour that lead to conflicts and the commission of offences; (b) explore the relationships between these patterns and situations and the individual and collective needs and identities of the young people concerned; (c) seek to encourage alternative sources of prestige and status; (d) provide access to the services of local agencies; and (e) divert young people from crime-prone situations into legitimate self-chosen activities.

25. Services and facilities for young people should be provided in a broader, multi-agency framework (see section III below). The complex, interconnecting network of services - education, training, employment, accommodation, cultural and leisure activities and social security - needs to be co-ordinated at the local level with due regard to local conditions. Street workers or their equivalent are often in the best position to discover the precise needs of young people and can therefore play an important mediating role between them and this network. Further information can be collected from small, local surveys on the social and economic situation of young people and by monitoring the effects of national and local policies on young people at risk of committing an offence.

26. Resources should be targeted primarily at areas with limited delivery of services, high crime and high unemployment and at particular periods, such as after-school and school holidays. In addition, care should be taken to ensure that the groups most in need of resources have easy access to them. Clear principles of co-operation between youth workers and law-enforcement authorities should be developed. The respective areas of police and youth work need to be clearly defined and a code of practice drawn up outlining how they should work with one another. The police should recognize the youth worker's need to maintain the confidence and trust of young people and, similarly, youth workers should respect the importance of the law. Youth workers have to come to an understanding with the police about how to respond to offences by clients.

D. Employment

27. The relationship between employment and crime is very complex. The effects of unemployment on crime have not so far been successfully isolated from a wide range of other socio-economic factors, such as income distribution and inequality, urban deprivation and deficits in education. Nevertheless, it is widely felt that unemployment is closely interrelated with social and economic deprivation and is an important factor in crime. The relationship between local and national employment policies is also very complex. Employment policies at different levels should be consistent, but in practice this may not be the case. Generally, employment and training programmes concerned only with reducing crime have, with some exceptions, been largely ineffective. Programmes that focus on providing long-term, quality employment are more likely to be effective than those which attempt to change attitudes and

behaviour or provide only short-term employment. Programmes that remove participants from high-crime neighbourhoods and crime-prone peer groups have had some short-term success, but since most participants return to their natural environment, they are of only limited value.

28. Two main kinds of employment-based approaches may help to reduce or to prevent crime: (a) the provision of training and work experience; and (b) improvement and expansion of employment opportunities.

29. Training and work experience. Training and retraining should be linked to the requirements of the local market in general and of local employers in particular, and should take account of changes in patterns of employment, technological developments and career aspirations. Along with work experience, they should develop technical and vocational skills and provide formal qualifications. Courses in life-skills and community service and, if necessary, remedial courses in areas such as literacy and numeracy are usually required. The training should also focus on improving the readiness of individuals for the discipline of the world of work, with its rules and expectations. Those unemployed for a prolonged period, and those who never had an opportunity to work, may need on-the-job training, gradual exposure to work and various forms of social support. Placement strategies should be used to fit trainees to jobs and vice versa. Where only short-term, unskilled work is available, strategies for placing trainees in long-term, semi-skilled or skilled work with prospects should be formulated. Ultimately, however, resources for training and work experience will be largely wasted without the development of employment opportunities.

30. Improvement and expansion of employment opportunities. The creation of new employment opportunities should be based on developing the local economy and creating new opportunities for work to benefit the community. New jobs should be created with a view to long-term employment rather than merely serving as stop-gaps of the sort that employees may well be familiar with, and to which crime is likely to seem an attractive alternative. Local participation enhances commitment and is more likely to produce employment opportunities that coincide with the needs and skills of local residents. The private and public sectors should co-operate to make the most of employment opportunities, for example by offering incentives, including financial incentives such as those used to persuade organizations to employ ex-offenders, and grants for relocation and a new beginning. The quality of existing employment should be enhanced so as to provide a greater incentive to apply for and keep jobs. As well as income, work should, as far as possible, provide a degree of satisfaction, a source of identity and status and long-term prospects. Networks should be developed, providing basic information on the types of jobs available and the requirements for and daily content of different jobs. Informal networks - the provision and connections through personal contact with friends and relatives - can also be supported and enhanced. In unstable, socially disorganized communities, where economic development faces considerable difficulties, the public or private sector may have to compensate for the lack of informal networks among the most marginalized groups.

E. Health policy

31. Many persons have physical or mental disabilities that contribute to their marginalization. To ease their social integration, these disabilities should be dealt with through an integrated health policy. National policies to promote better health, nutrition and psychological and emotional well-being should be co-ordinated with targeted programmes at the local level.

F. Urban planning and housing policies

32. Social development and planning of neighbourhoods, including subsidized housing, are important elements in preventive crime. Urban planning, and in particular housing policies, have tended to focus on subsidized housing for multi-problem, low-income families. However, concentrated subsidized housing can increase the likelihood that young people already prone to delinquency will meet others similarly predisposed, thus amplifying the potential for delinquency. Social housing programmes should therefore emphasize the importance of integrating subdidized with non-subsidized housing. The development of urban planning and housing policies should involve the close participation of all residents.

II. SITUATIONAL CRIME PREVENTION

A. Measures that reduce opportunities to offend and increase the risk of detection

33. Situational crime prevention comprises measures directed at specific forms of crime; such measures involve the management, design or manipulation of the immediate environment in which these crimes occur in as systematic and permanent way as possible, so as to reduce the opportunities for criminal behaviour and increase the risk of detection as perceived by a broad range of potential offenders. The "situational perspective" is most useful for explaining crime committed by normally law-abiding people acting rationally, but under specific pressures, and in specific, usually "opportunistic", situations. It is generally applicable to petty and acquisitive crime such as residential burglary, shoplifting and vandalism. It may also be applicable to violent offences committed under certain circumstances. Situational measures have frequently been adopted in residential areas, but apply equally in other settings, especially retail premises and transport undertakings.

34. Their success depends on the extent to which potential offenders believe that situational changes adversely affect the ease, the risks and the rewards of committing offences, and on how this belief influences their decision whether or not to commit an offence. Clearly some situational measures will affect the decision-making of potential offenders more than others. Equally, certain potential offenders will be more influenced than others by changes in a situation.

B. Measures that hinder the commission of offences

35. There are at least three ways in which opportunities for committing crimes can be made physically more restrictive: by "hardening" the target; by removing the target; and by removing the means of committing a crime.

1. Hardening the target

36. The target may be hardened by increasing the physical security of targets through the use of locks, reinforced and unbreakable materials, alarms, and immobilizing devices, while vulnerable objects can be placed behind fences, grills or meshes or in safes. Vandalism to and thefts from telephone kiosks have been reduced by, for example, replacing aluminium coin boxes with steel ones, and thefts from retail and commercial premises have been reduced by the skilful deployment of intruder alarms. The most frequently targeted offences, which attract various hardening strategies, are robberies, burglaries, shoplifting and thefts of and from vehicles. Four target-hardening strategies are

commonly adopted: security improvements; building and design codes; publicity campaigns; and insurance incentives. The first two act directly on targets, while the second two act largely through persuasion.

(a) Security improvements

37. Locks and other devices are commonly employed to protect various kinds of premises from outside intrusion. Once installed, such devices are of little value if not used, so attempts to increase the security of property must also focus on encouraging owners to be more cautious. Security surveys may be undertaken by specialized police officers or others, such as insurance companies and community crime prevention agencies, which should tailor their advice to the security needs of individual property owners. To be most effective, security advice should advocate measures that fit in with the needs and priorities of people's daily lives. Their effectiveness depends largely on what targets are being hardened. For example, the installation of compulsory steering column locks on cars has been known to reduce car thefts dramatically, and cost-effectively, although all cars, both old and new, should also be secured. In contrast, there is some limited evidence to suggest that target-hardening measures in public housing have reduced the number of burglaries, since there may be some displacement to other areas or forms of crime (see section IV).

(b) Building and design codes

38. A more comprehensive, long-term approach to the protection of property is to ensure that new buildings and, indeed, entire areas, comply with specific security standards. National codes detailing the costs of installing different levels of security in various kinds of properties and guidelines for architects and builders on building security have been developed in some countries. Care should be taken to ensure that security standards do not conflict with fire-prevention requirements. In addition to steering column locks, the "crime-free car" should have central locking systems, alarms, windows made of reinforced glass and registration numbers etched on windows to reduce their resaleability if stolen. Motor manufacturers need to be persuaded that they are responsible for producing secure vehicles. Insurance companies should provide incentives to consumers to purchase vehicle security, and the public needs to be persuaded that people are themselves ultimately responsible for the security of their vehicles. If possible, builders and manufacturers should be obliged to conform to minimum security requirements which should be a part of building or design codes, both for housing and for producing security devices.

(c) Publicity campaigns

39. Because certain crimes, for example thefts from homes and cars, are widespread and many are facilitated by the negligence of owners, publicity campaigns aimed at inducing potential victims to guard against such crimes have become commonplace. But the effects of such campaigns, whether conducted through radio, television broadcasts, advertising in the press or the distribution of leaflets, are difficult to measure. Initiatives that combine them with other measures, such as police patrols or the installation of central locking devices in vehicles, can increase the willingness of householders and vehicle owners to take precautions. While general publicity campaigns tend to augment levels of knowledge and concern, it is rare for them to change actual behaviour substantially or to reduce crime rates, except, perhaps, in the short term.

(d) Insurance incentives

40. Insurance companies, by insisting on the installation of security hardware as a condition of insurance cover, can increase the use of security devices, although care must be taken that the additional costs involved do not deter potential purchasers. Crime tends to be more widespread in poorer areas, which consequently have a greater need both for security measures and for insurance against the effects of victimization. Since insurance premiums in such areas tend to be very high, it may be necessary to provide the poorest with subsidies or to offer discounts to tenants who install security devices. There is as yet little evidence on the effects of commercial insurance on the prevention of crime. The computerization of insurance claims can increase the detection of insurance fraud but is unlikely to eliminate it. Given that the costs of insurance claims, including fraudulent claims, are passed on to the consumer, and that the poor are most likely to be victimized by crime, insurance tends to discriminate against those least able to afford protection.

2. Removing the target

41. Some crimes can be prevented by removing access to the target or by designing the environment so that opportunities for crime are minimized. Blank walls can be covered with special materials to discourage graffiti; using cheques, credit cards and other forms of "plastic" money instead of cash reduces the opportunities for crimes such as security van robberies and thefts from telephone kiosks; similarly, theft of fares deposited in trams or bus boxes can be prevented by a system of pre-paid tickets.

3. Removing the means of committing an offence

42. Certain offences can be prevented if the means for committing them are made unavailable. Screening airline passengers for weapons and explosive devices has reduced the incidence of aircraft "skyjacking" and football violence has been tackled through the systematic searching of fans prior to matches and the removal of bricks, stones and other potential weapons around football grounds. An important example of removing the means of committing a crime is gun control, namely the restriction or registration of firearms ownership, even though the extent to which gun control applies may become a very debatable issue.

C. Measures that influence the costs and benefits of committing an offence

43. The costs and benefits of committing an offence can be influenced either by reducing the incentive to do so or by increasing the perceived threat of apprehension and conviction. The former consists in decreasing the expected benefits from committing an offence, in the case of theft, for example, by reducing the value of whatever property is stolen, usually by marking the property. Such measures extend beyond prevention and into the realm of detection. Installing dye on bank notes and painting markings on retail goods, or using olfactory chemicals on carpets, may not only deter offenders but may also assist in their detection. One way of increasing the perceived threat of apprehension would be to strengthen the various forms of surveillance, and it could be applied to most forms of crime. It is not capital-intensive, like other situational measures, but "person-intensive". It can be divided into formal and informal surveillance on the one hand and natural surveillance on the other.

1. Property marking

44. The durable marking of property such as cars, bicycles and valuable household goods reduces its value in the eyes of the offender by making the property easier to identify and thus less marketable and less usable. Names or identity numbers can be engraved on property with special engraving equipment or invisible ink. This alone, however, rarely affects the chances of recovering property should it be stolen, or of preventing its resale. Where schemes use stickers advertising that goods are marked and where high participation rates can be secured with a minimum amount of effort (which is rare), burglary and theft rates are more likely to decline. This suggests that the success of property marking schemes lies not only in their capacity to reduce the value of stolen goods, but also in their capacity to suggest to potential offenders that owners are more wary of being victimized and that the risk of apprehension is thus greater.

45. There are a few examples of very successful property marking schemes in rural areas. The application of highly visible paint marks to all containers of farm chemicals, along with stickers announcing they have been marked and a publicity campaign to raise public awareness, have been known to reduce radically the theft of farm chemicals. Grain can be very inexpensively marked by mixing it with small pieces of numbered paper. Other goods, such as timber, mechanized farming equipment and livestock have been successfully marked, tagged or branded. It is not known, however, to what extent these initiatives may displace crime to other areas or other forms of offence.

2. Formal and informal surveillance

46. Formal surveillance refers to the activities of those, usually the police, whose sole or primary function is to deter potential offenders by providing a constant threat of apprehension. However, while the mere presence of the police (or security personnel) in certain places may be enough to deter offenders, simply employing more police officers does not automatically lead to a reduction in crime. Formal surveillance by private security firms has become increasingly commonplace. Traditionally, companies have hired the services of private security firms to patrol and control access to mainly privately owned premises. In recent years, security firms have become active in semi-public premises such as shopping centres, airports and holiday camps. In some countries, central and local governments have established their own security firms. Elsewhere, police forces have entered into partnerships with private firms. The expansion of the size and scope of surveillance by private firms raises questions about those firms' authority and their relationship with the police. The activities of private security officers need to be regulated by legislation, which should include requirements for the screening and training of security officers and arrangements for supervision by local police.

47. In contrast, informal surveillance is carried out by public service officials, company employees and ordinary citizens as part of a wider role or job. Employees in a position to assist in preventing crime include concierges, car park attendants, bus and tram drivers, ticket inspectors, shop assistants, teachers and stewards at sports stadiums. Surveillance by caretakers on housing estates and concierges at the entrances to high-rise residential blocks and other premises has been found to reduce levels of vandalism and burglary (and maintenance costs) and increase feelings of safety and social interaction amongst occupants. The reintroduction of supervisors on public transport has also increased informal supervision and led to a reduction in vandalism and in non-payment of fares. The effectiveness of employee surveillance in reducing crime in residential, retail and recreational premises and on public transport

can be enhanced by technical equipment, such as entry phones, closed circuit television and radiotelephones. The most informal kind of surveillance is that carried out by ordinary citizens in their places of residence and elsewhere. There are two main ways in which the potential for surveillance by ordinary citizens can be tapped, namely by organizing citizen patrols and neighbourhood watch schemes.

(a) Citizen patrols

48. Where crime prevention is thought of as the task of every responsible member of society, ordinary citizens may form patrols to act as the "eyes and ears" of the police. Citizen patrols usually consist of groups of volunteers who help the police by watching from particular vantage points, checking on strangers and patrolling areas, often at night. They check property and buildings and report deficiencies (e.g. open windows and unlocked car doors) to the owners and suspicious incidents to the police. Patrols vary according to location and area (individual buildings, factories, estates, neighbourhoods, rural areas, transport systems, schools etc.), function (property protection, person protection, monitoring of police behaviour and community safety issues such as fire prevention) and mode of transport (foot, vehicular). While citizen patrols may alert potential offenders to the fact that a community is continuously being watched, they have not yet convincingly demonstrated their independent effectiveness in reducing crime. A variation of citizen patrols in residential areas is the neighbourhood or block watch. Another variation is patrol by parents in areas where large numbers of adolescents usually gather: experience has shown that the mere presence of such patrols serves as a deterrent.

49. Some voluntary patrols bear a close resemblance to the regular police. They are given special training, wear uniforms and may under certain conditions use measures similar to those of the police. While they act within the law, they may not be accountable for their actions to the same extent as the police are.

50. The dividing line between active public involvement and unacceptable interference is a thin one. Voluntary patrols may be accused of vigilantism, of unnecessarily intruding into areas of personal privacy, of usurping rather than assisting the police in their duty to uphold the law, of arousing suspicion among neighbours and of inadvertently undermining civil liberties. Constant vigilance should accompany the expansion of surveillance in this form if human rights and freedoms are to remain intact.

(b) Neighbourhood watch

51. The essence of the neighbourhood watch scheme is to encourage citizens to watch out for and report suspicious incidents. Small groups of citizens come together to share information about local crime problems, exchange crime prevention tips and make plans for engaging in surveillance of the neighbourhood. Members keep an eye on each other's property, mark their goods, improve the security of their homes and in some programmes make suggestions for upgrading the physical environment. Other activities include victim/witness assistance schemes, and block (or estate) parenting schemes, which provide safe havens for children in trouble. Neighbourhood watch programmes are usually started by the police or by a group of active residents. They may cover only a few residences or extend to thousands, although the most common size tends to be between 300 and 500 dwellings. A local co-ordinator is usually appointed and individual estates within a neighbourhood may appoint representatives to act as intermediaries. Meetings and newsletters keep members up to date and

offer crime prevention advice, stickers are applied to the outside of dwellings to denote membership and street signs can be used to signify that an area is covered by a neighbourhood watch scheme.

52. Neighbourhood watch is easiest to set up and sustain in homogeneous, stable neighbourhoods, where participation in voluntary and community organizations is common. In dwellings where occupancy rates are low and there is poor visibility, the effectiveness of public surveillance is more limited. In areas with a high resident turnover, the identification of strangers is difficult, particularly since in many communities outsiders may enter the area for legitimate reasons. Participation rates in such areas may also be low or difficult to sustain and it may be necessary to broaden schemes to cover other issues or attach schemes to other, pre-existing initiatives. In practice, there is no conclusive evidence that potential offenders are substantially deterred by the knowledge that an area is covered by a neighbourhood watch. An accurate assessment of the scheme's effectiveness in reducing crime is complicated by the considerable number of poorly evaluated projects, many of which claim unequivocal success. The underlying theory is that, by extending informal surveillance, the number of cases reported to the police and the number of arrests increases, the number of offenders on the street declines and other potential offenders are deterred from committing offences in what is perceived as a more risky area. The benefits of neighbourhood watch can go beyond informal surveillance. By coming together to fight a common problem, the frequency and quality of social relations amongst residents may improve, community bonds may be enhanced and the community's capacity to defend the neighbourhood from offenders may increase. This is one, if not the main, objective of community-based crime prevention, which is covered in section III.

3. Natural surveillance of the physical environment

53. Some areas are naturally endowed with high visibility, while others, such as those with poor street lighting or with pedestrian tunnels and blind alleys, may not be. Offences are less likely to occur if potential offenders think they can be observed. In this respect, surveillance can be achieved by manipulating the environment - the design, location and lay-out of buildings and the spaces around them. Premises, and especially entry points, communal areas, car parks (particularly underground garages), playgrounds and footpaths, should be easily visible; opportunities for concealment near and inside dwellings should be minimized; cul-de-sacs and the careful placing of fences and other barriers should ensure that access to and exit from an area discourage strangers; and land uses should be mixed to encourage a bustling activity and to increase the number of "eyes on the street". Proper maintenance of property can also reduce opportunities for crime. Windows broken by vandals should be mended quickly. Security devices to prevent unauthorized entry or to detect intruders require checking at regular intervals. In public and commercial buildings, someone should be given explicit responsibility for security matters.

54. Premises that are thought of as occupied, guarded or easily visible are the least likely to be victimized. Thus, measures that give the impression of occupancy may also help to prevent crime. Where premises are left unoccupied for long periods, particularly in residential areas with a high proportion of childless families and working parents, extra precautions should be taken to give the impression that the premises are occupied. The complexity and cost inherent in carrying out environmental improvements may limit their effectiveness. Measures for increasing visibility and limiting accessibility can, for example, also reduce privacy; similarly, measures designed to instil or increase a sense of territoriality by, for example, erecting fences around public spaces, can reduce surveillance.

55. The effectiveness of natural surveillance is contingent upon the preparedness (or perceived preparedness) of individuals to intervene if they witness a suspicious incident. If they are to report such an incident, residents must feel positively disposed towards the police. They should have no fear of retaliation and should believe that the police will respond promptly and constructively. Willingness to report incidents is therefore partly dependent upon police and community relations and the policies and roles adopted by the police in particular communities (see section IV). The relationship between the physical environment and crime is complex and the subject of considerable dispute. The key appears to lie in the effects that changes in the environment have on the social behaviour of residents and potential offenders. If, as a result of redesigning a neighbourhood, residents begin to become more involved in their community and with one another, then some of the conditions for reversing neighbourhood decline and improving the capacity of the community to defend itself can be developed. Research has shown that areas with a similar design can and do experience very different crime rates. This suggests that a total approach to the physical environment needs to be combined with social and community development measures if substantial reductions in crime are to be sustained.

D. Multiple-measure situational crime prevention

56. Experience in situational crime prevention has shown that it is only under certain circumstances that individual measures affect crime rates in the long term and without displacement. It has also shown that strategies should be targeted on the basis of an assessment of local needs and problems (see section IV). Consequently, situational crime prevention has been steadily moving towards a more systematic application of multiple strategies, targeted locally and sometimes involving several agencies. The following examples in the areas of transport-related offences and offences in residential areas, will help to illustrate this trend.

57. A multi-strategic approach to transport systems consists in combining measures for reducing criminal opportunities with measures for improving detection rates and passenger safety. Thus, measures such as providing automatic entry and exit gates to reduce fare-dodging and issuing travel-cards to reduce ticket fraud are combined with measures to increase staff visibility at high-risk times and in vulnerable places and the installation of technical equipment, such as closed circuit television and alarm buttons for summoning assistance. Run down, dimly lit and vandalized stations induce fear and may facilitate the commission of offences. A multi-strategic approach can therefore also help to improve standards of lighting, cleanliness, maintenance and repair. In some cases, it may also be worth employing specialized crime prevention officers to advise management, staff and passengers, conduct security surveys and publicity campaigns, inform staff of specific crime problems and advise architects and builders on the security aspects of new works.

58. This approach is becoming increasingly common in residential areas, particularly on high-rise public housing estates, where tenants tend to feel isolated and often have little personal stake in the property. The use of situational measures in such areas can lead to a kind of "fortress" mentality, as residents become increasingly security conscious and withdraw into what they see as the safety of their homes. Also, they frequently experience increased feelings of isolation and fear of crime. Individual protection should therefore not be at the expense of social interaction within the community. Thus, projects that combine improvements in security and surveillance with community development and victim support work are more likely to

improve overall levels of community safety. To increase social cohesion and generate greater feelings of safety, tenants need to be involved with other key participants, such as caretakers, the police and representatives of the local authority, in the identification of needs, problems and preventive strategies.

III. COMMUNITY CRIME PREVENTION: PROGRAMMES OF COMMUNITY DEVELOPMENT AND MULTI-AGENCY CO-OPERATION

59. Community-based crime prevention approaches have developed out of a recognition that physical measures to reduce opportunities for committing offences should be part of a broader, community-based response. The first approach consists in preventing crime through one aspect of urban planning, namely housing policy, the second, through community development. Both are concerned with influencing the behaviour of residents and potential offenders in order to reverse neighbourhood decline and increase the capacity of communities to exert a greater degree of control over their environment and their lives.

A. Preventing crime through housing policy

60. The trend towards consciously considering the crime preventive implications of housing policy has led to the development of a range of improvements on run-down, high-crime public housing estates, which combine environmental design criteria with changes in housing management and allocation policies. Decentralizing housing management, providing maintenance and caretaking services, speeding up renting and transfers to keep the number of vacant properties to a minimum and encouraging involvement by residents are three of the main strategies employed. Others include restricting the number of children in any one housing block, locating families with children in low-rise blocks and providing better recreational facilities for the young. In more sophisticated programmes, co-ordinators are employed to galvanize residents into acting together with local agencies and the police to improve environmental and social conditions.

61. Some neighbourhoods are so entrenched in a cycle of decline that only a combination of physical, environmental, managerial and social measures can reverse the process. The difficulty of making accurate assessments of the precise state of the physical and social health of neighbourhoods in order to make correct investment decisions should not be underestimated. Even where crime and disorder are high, some neighbourhoods may still not slip into decline. It is important to resist the temptation to flood neighbourhoods with every kind of crime prevention measure available in the hope that something will work. The art of cost-effective policy making is to develop solutions that match the scale and the nature of problems. An essential component of comprehensive community-based programmes should therefore be a thorough assessment of the needs, problems, socio-economic and cultural structure and resources of the community, as well as an analysis of the problem of crime in the area (see section IV).

B. Crime prevention through community development

62. The nature of the problem, and thus the strategies to combat it, clearly vary from one housing project, neighbourhood or local area to another. Some neighourhoods comprise settled communities with established local institutions and informal networks of family, employment and friendship. Such communities are usually characterized by a strong sense of cohesion, good access to local

agencies and a co-operative relationship with the police. Crime prevention in these communities tends to revolve around the mobilization of existing resources, including volunteers, to strengthen and protect the community from outside threats. Where neighbourhoods are characterized by highly transient, heterogeneous and unstable communities with high proportions of low-income, single-parent, and multi-problem families, residents feel threatened not only from outside but also from within. If the neighbourhood also comprises run-down, poorly managed, high-rise blocks of flats, both the risk and the fear of crime are likly to be very high. In such communities, redesigning the physical environment needs to be combined with community development strategies that encourage all parties (residents, landlords, local agencies and police) to work together to reduce crime and fear of crime.

63. Existing community resources will need to be supplemented by incorporating the assistance of local agencies and tapping the resources of private as well as public institutions with a stake in the community. Where relations with local agencies are characterized by apathy and alienation, improving service delivery and access to the professionals who can provide solutions to some of the problems will be an important prerequisite of neighbourhood improvement. It is often very difficult to mobilize community support and co-operation in these kinds of communities, particularly where concern about crime is an expression of conflict between groups within the community. Consequently, where high-crime areas contain high concentrations of ethnic minorities and suffer from latent or overt racism, measures are needed to reinforce a sense of community. Similarly, where relations with the police are strained or antagonistic, mobilizing community support and generating a greater sense of "community" must partly depend on building a basis of trust and co-operation between residents and the police.

64. The approach to crime prevention required in these two contrasting types of communities will be very different. In better-off communities concerned with protecting themselves and their property from outside threats, programmes can be developed by reassessing priorities in existing community organizations. Voluntary forces can be mobilized and, together with the police, a crime preventive strategy can be constructed which focuses on improving existing relations rather than changing social conditions. In such communities, reducing the fear of crime may be as important as reducing actual crime. In poorer areas, resources from outside the community will need to be mobilized. New community organizations may have to be nurtured and potential leaders identified. Crime prevention should focus on the root causes of crime and, in particular, on the social and economic conditions that underpin the capacity of the prime socializing institutions to function effectively. Programmes to support families, improve employment opportunities and provide adequate schooling and housing must be started. Social, economic and community development are the cornerstones of this approach.

65. Preventing crime in the better-off community tends to be less of a problem. Unfortunately, conditions are far less favourable in the communities that suffer the most from crime and the fear of crime. Given this dilemma, decisions concerning the targeting of crime prevention resources - whether, for example, to concentrate on the areas that need the resources most or on areas where efforts are most likely to succeed - must be taken with care. In areas characterized by transient populations, high proportions of immigrants, weak community bonds, an absence of shared norms of behaviour, social disorganization and a range of intractable social problems, crime can usually only be reduced by tackling these endemic causes. In these kinds of areas, the threat of crime can be exacerbated by conflicts between different groups (particularly youths and ethnic minorities) and sometimes by conflicts with the police. Thus

the capacity of such communities to organize a collective response to crime and to socialize residents, especially the young, may be severely limited.

66. To a large extent, the success of community efforts to alter the social and economic fabric of neighbourhoods will ultimately depend on the development of, or at least support for, the same policies at both national and regional levels. However, there is some room for local communities to manoeuvre within the overall constraints of national and regional socio-economic policies. Resources for combating crime can be allocated to the areas that need them most; residents in high-crime areas can learn how to use existing resources more effectively; administrative arrangements can be reorganized in order to focus resources more closely on the needs identified by local inhabitants; the democratization of political power can empower local citizens to achieve their objectives more readily and effectively. There is therefore scope for developing local strategies for combating crime which go beyond tinkering with the physical environment and influence the social, economic and cultural conditions associated with crime in particular areas.

67. The range of problems that may have to be resolved includes poverty, relative deprivation, excessive consumerism, limited employment and training opportunities, drug and alcohol abuse, racial and cultural conflict, inadequate schooling, lack of community facilities, overcrowding, slum housing and urban deterioration, broken homes, poor family functioning and homelessness. Attempts to reduce crime in unstable neighbourhoods suffering from such problems require not just the mobilization of community members but also a reassessment of how existing resources are allocated and managed. In some instances, particularly at the beginning of an initiative, additional outside resources (financial, organizational and personnel) may be required. The key institutions that can influence community crime rates are networks of families, peers and neighbours, and local institutions such as schools and places of employment and, if they exist, other community organizations.

68. Crime prevention in such communities is unlikely to be effective without a concerted attempt to target resources on the groups most at risk of offending. Two important groups are likely to be marginalized: adolescents and immigrants, both of which may experience difficult transitional problems. Immigrants have to adapt to strange cultural conditions and sometimes hostile social attitudes. Marginalized adolescents have to adapt to the demanding expectations of adulthood, often without the necessary skills or resources for doing so. Both groups must find ways of successfully bridging a stage of transition not necessarily of their own making and for which they are often ill-equipped. Turning to crime may provide a "solution" for some of those who experience difficulty.

C. Integrating young people into society

69. Schemes for young people are the most common forms of community-based initiatives that focus on reducing dispositions to offend rather than blocking opportunities or increasing surveillance and detection rates. National networks of youth centres are becoming increasingly common. They can provide unemployed and unqualified school leavers with training and access to work experience, homeless youngsters with temporary accommodation and others with various forms of advice and assistance on matters ranging from how to claim welfare benefits to where to go for treatment for drug and alcohol problems. Such centres aim to give young people self-confidence and self esteem, to tell them they are worthy in spite of their limitations and difficulties and to teach them how to make decisions for themselves and live with the consequences. They can help young people to survive, grow and acquire independence.

70. Youth centres may not, however, be sufficient to build up relationships with the most alienated young people and those most at risk of committing offences. Neither is the idea that young offenders can be deterred from crime by giving them something to do and keeping them off the street an adequate solution. By identifying and working with natural peer groups at risk of offending and by keeping in close contact with local schools, parents and a range of community and other agencies, including the police and the representatives of the judiciary, youth workers and organizations can play a more central role in integrating young people into the community and in preventing offences from occurring. To a growing extent, work with young people at risk is carried out within a locally based, multi-agency network, which provides access to a range of financial, political and administrative resources, which can alter the whole range of socio-economic conditions affecting their lives and their disposition towards committing offences.

D. Crime prevention through multi-agency co-operation

71. The multi-agency approach is becoming increasingly common in efforts to start crime prevention programmes that require wide-ranging resources for generating social, economic and community development. In contrast to earlier, "top down" approaches to social engineering and crime prevention, which with hindsight were found to be politically, financially and administratively over-ambitious, recent developments have become more low-key and grass-rooted. Now, local, multi-agency committees, comprising elected representatives, members of the judiciary, the police, trade unions, the local administration, local residents and in some cases local business and industry, develop and implement their own policies based on local needs and conditions. They are usually responsible for identifying problem areas, encouraging joint strategies of intervention and prevention, co-ordinating preventive measures and targeting "at-risk" groups. Considerable emphasis is placed on local communities to determine collectively the quality of their lives. Community facilities are planned with local residents and attempts to develop or redevelop the community proceed with the community's consent.

72. Initiatives based on local decision-making and participatory democracy require national leadership and endorsement. A common form of national organization is a crime prevention council, consisting of representatives from political parties, trade unions, industry, ministries and various organizations, which is responsible for formulating policy. An alternative form of leadership can be provided by interministerial committees, with representatives from various government departments (e.g. employment, housing, health and social services, education, transport and urban planning and local government, justice and the interior). Such committees are particularly well placed to monitor and assess the impact of social, economic and educational policies upon crime. Whatever form national leadership assumes, it should take the responsibility for collecting and disseminating relevant information and should provide at least initial funding for setting up, running and evaluating local projects. In carrying out its tasks, it will benefit from strong links with the network of local multi-agency committees.

73. An important part of crime prevention is the efficient delivery of local services. In some circumstances, the decentralization of services, particularly housing services, may improve their efficiency. Special committees or other bodies can be set up to consider all local services in relation to crime and community safety. Such multi-agency committees can help to develop corporate expertise, assist in the resolution of conflicting departmental interests and disseminate good practice. Special training courses or seminars may need to be organized for departmental representatives on such committees.

74. Members of multi-agency committees should have sufficient authority with their own organizations to integrate the views of the committee into departmental policies and vice versa. They should be made fully aware that the initiative does not represent a response to exceptional circumstances. Procedures and areas of responsibility should be clearly delineated at the outset. Care should be taken to ensure that multi-agency networks do not become an end in themselves. This may mean acknowledging, facing up to and resolving any conflicts that arise, for example, in connection with the sharing of confidential information. Agencies may feel reluctant to undermine a basis of trust which exists between themselves and other agencies or individual clients. Codes of practice can be constructed to balance the need for an exchange of information with the need for restraint and protection. Power differences between participating agencies are inevitable, but need to be tempered wherever possible. It is particularly important that the "police view" does not become dominant, to the exclusion, or partial exclusion, of the contribution of other interested parties, including victims and minority groups. Relations between multi-agency committees and local residents also require careful handling, as they, too, may have conflicting priorities.

75. Multi-agency networks can be quite complex. They must be effectively directed and their work is best managed by a professional co-ordinator, who monitors progress to stay abreast of developments and who can act as a catalyst, a negotiator and a motivator. Co-ordinators can be appointed from one of the agencies in question or externally. Both have advantages and disadvantages. Externally recruited co-ordinators may mean extra expense and they may antagonize agency workers who resent what they see as inteference. Co-ordinators appointed from one of the agencies may upset the balance of power between agencies, particularly if a consensus on goals and ways of achieving them has not yet been reached. There is little hard evidence to demonstrate whether or not the multi-agency approach is effective in targeting those most in need, building community cohesion, lessening fear of crime or reducing community crime rates. The very few evaluations that have been completed are either flawed or have focused on implementation issues. Initiatives that direct resources to small "at-risk" groups are unlikely to affect overall area crime rates, but may, if targeted on specific offences, influence their rates in the area.

76. Evaluations that have focused on implementation have produced interesting findings on the problems and conflicts associated with inter-agency co-operation. While there are considerable benefits to be had from pooling professional resources and improving communications between local agencies, care must be taken to ensure that the legal rights of the individual are protected, particularly where multi-agency committees deal with individual cases. Mutual distrust between agencies, particularly between the police and the educational and social services departments, is not uncommon and can restrict the capacity of committees to co-operate and to develop a joint strategy. Their expectations of each other are sometimes unrealistic and agency representatives may work on the basis of very different principles. One of the most important findings of these studies is the need to integrate the police into the local decision-making and service provision machinery.

E. Community policing

77. The police increasingly acknowledge the importance of getting the co-operation of the community. Community policing, with its emphasis on consultation, participation and consent, reflects this and represents a significant shift away from traditional law-enforcement models of policing. Research on its effects has, however, been somewhat inconclusive, both with

respect to its effects on crime and on relations between police and public. The degree to which community policing has been implemented is itself questionable. Nevertheless, research has identified at least four ways of improving both its concept and practice.

(a) The nature and focus of crime prevention work within the police profession need to be made clear to police officers, particularly among the lower ranks. The status of this work should be enhanced;

(b) The introduction of other performance indicators, in addition to arrest and process reports, could enhance the status of preventive work. These could include the development of productive contacts with local groups and agencies and changes in reporting levels and clearance rates for those crimes of most concern to the public;

(c) Police training should focus more on increasing professional skills relevant to community policing, particularly in developing communication and organization skills, on work with other agencies and on community relations work, especially with minority groups and with the young and the elderly;

(d) In so far as police effectiveness depends upon public co-operation, the police should construct strategies to prevent the crimes and public nuisances that are of greatest concern to the community. Since the police should not and cannot "own" the crime problem, strategies should be developed together with residents and local agencies. The police should keep the public informed about developments. Local surveys can establish the community's priorities, its expectations and demands of the police, and the areas most at risk of crime and victimization.

78. In run-down areas with high crime rates, the police task can be daunting. It may be necessary to provide a high level of service, within a community policing model, at least temporarily. Care should be taken to ensure that the work of different police units is not, inadvertently, counter-productive. Policing in such areas must be part of a multi-agency network. This, together with resident consultation and participation, is essential it the socio-economic conditions that underpin crime are to be improved.

79. Traditional forms of policing are beginning to change. Research on police patrols, the most fundamental feature of policing, has shown that the police spend most of their time offering help and advice. This means that patrols are highly unlikely to be present at the scene of all crimes, and increasing the number of patrols (with the costly exception of "saturation" policing) is unlikely to make a significant impact on overall crime levels. The experience with car patrols is similar, with the added disadvantage that they are associated with the law-enforcement aspects of policing at the expense of the community relations or peace-keeping aspects. Patrols can, however, provide a sense of security.

80. Directed patrolling appears to be more effective, particularly if integrated into an overall strategy. Where police patrols are deployed on the basis of an analysis of crime patterns, are based in small geographical areas and establish productive relationships with community residents, their effectiveness can be greater. They need to be seen, known and valued, all of which can be achieved by patrol officers spending as much time as possible in the community. Mini stations, staffed by one police officer and several volunteers and located in the vicinity of other community organizations, can increase accessibility and awareness, but usually do not reduce crime beyond the station's immediate catchment area.

IV. PLANNING, IMPLEMENTATION AND EVALUATION OF CRIME PREVENTION

81. The approaches outlined in sections I-III describe what can be done outside the criminal justice system. None of them is mutually exclusive, nor does any one of them represent a self-contained blueprint for action. They contain elements that can be borrowed, adapted and implemented according to the needs and problems faced by local communities. But whatever approaches are favoured, they must be properly planned and implemented. The process of crime prevention - from an initial analysis of the problem, through the selection and implementation of appropriate measures, to an evaluation of the initiative's success, is extremely important.

A. Analysis of the crime problem

82. The first task is to conduct a systematic analysis of crime in, and the needs and problems of, the community. Crime does not occur randomly, but shows distinct patterns, which can give important clues to prevention. Different types of crime tend to occur in specific places, usually around certain times. They tend to focus on certain kinds of property and victims and are committed by particular kinds of people using a range of methods. These patterns need to be ascertained by building up data bases, preferably computerized, of quantitative and qualitative information from a range of sources.

83. Police and other official records will provide much valuable information on where, when and how different kinds of incidents have occurred. Information from different sources can be pooled to provide a fuller picture, taking care to ensure adherence to data protection provisions. Police and official records can be supplemented by surveys on crimes, victims and offenders, which provide more accurate data. Information on "good practice" elsewhere, while not necessarily directly transferable, may also be useful. Special training in the basic techniques of data collection and greater organizational priority are needed if crime pattern analysis is to become an accepted and routine part of management. The following gives some idea of the breadth and depth of information that can be collected and analysed:

(a) Nature and location of the offence, including legal categorization and contextual information, such as motive and grounds for dispute, physical proximity (e.g. near railway station, in shopping precinct) and generic location (e.g. on platform, in subway);

(b) Timing and method of the offence, such as date, day of week, time of day, point and means of gaining entry;

(c) Target or victim of offence, such as car, bicycle, domestic goods, and age, gender and life-style of victim, including activity at time of offence (e.g. commuting, shopping, sightseeing);

(d) Physical and social circumstances of the offence (i.e. lighting, degree of crowding, presence of potential interveners etc.), and whether offence was successful or not;

(e) Cost (financial and social) of the offence, or associated damage and to whom, and type of goods stolen or damaged;

(f) Characteristics of the offender (i.e. age, gender, class, race, whether alone or accompanied, criminal record, criminal contacts, school and employment record, family status etc.);

(g) Involvement of alcohol and drugs as a motive, and contributory behaviour of the victim, such as provocation.

84. This information should be supplemented by site visits to trouble spots and general information on the neighbourhood, such as demographic characteristics, levels of unemployment and local employment opportunities, housing conditions, racial mix, local amenities, and migration patterns. Further information should also be collected on the public's definition of the crime problem, their priorities for action, their views of the police and the provision of services by other local agencies. Surveys can be repeated to assess progress and chart the need to alter priorities. To interpret these patterns, it may be prudent to draw on the wider resources of criminological research as well as on local knowledge.

B. Devising appropriate measures

85. Once patterns have been established and interpreted, situational, social and community-based measures can be devised and targeted on areas, situations, offenders and methods of offending. At this stage, impractical, expensive or politically unacceptable measures should be filtered out. Where agencies are working together, each department should assess its potential contribution. The determination of priorities between measures, when it is necessary to make a choice on the allocation of funds, will pose problems. Issues to be considered include the relative practical benefit to the community of different measures and the social and economic costs of the criminal activity under consideration. Priorities will need to be established in accordance with local circumstances. Sometimes inter-agency tensions and individual agency interests may influence the choice of measures. Nevertheless, their selection should be based on rational assessments of their likely effectiveness rather than their administrative or political convenience. Research and evaluation can help agencies to select appropriate measures and methods of working, which transcend such difficulties. If possible, crime and community analysis should also anticipate some of the constraints that may arise in implementation.

C. Implementation

86. While crime analysis is imperative for identifying the nature of the problem, it does not guarantee effective action. It is just as important to know how to implement prevention strategies effectively as to know what strategies to adopt in the first place. Unless prevention measures are successfully implemented, the theory and validity of crime prevention cannot be tested. Even partial implementation can be prejudicial, since failure to implement all measures fully can undermine the effectiveness of those which are implemented. Sometimes, however, little attention has been given to the process of implementation and the associated difficulties.

87. There are basically two approaches to implementation. Either a programme starts with a fixed agenda and implementation is designed to correspond as closely as possible to what was originally planned, or a flexible approach is adopted and a set of general measures is refined and reworked in the course of events. Under the first approach, strategies must closely match the needs and problems of the local community and conform to existing social relations and political priorities. The second approach is probably more suitable, since it can accommodate unforeseen problems. Public agencies need to respond to a wide range of competing pressures and are almost inevitably subject to the constraint of political processes and considerations. As information is acquired on their effectiveness, measures can be changed to fit the new circumstances.

88. Five main strategies can be identified: (a) the use of regulations to enforce norms of conduct; (b) the provision of facilities and practical assistance to support desired actions and advice on the best practice regarding methods; (c) the development of motivation and the use of material and non-material incentives to encourage people to adopt measures, including training for participants in preventive programmes; (d) negotiation to resolve conflicts of interest; and (e) the use of prevailing traditions and customs. Which strategies are adopted will depend upon the nature of the problem and the particular difficulties that have to be overcome. There are a number of ways of increasing the chances of effective implementation. Some are associated with programmes that are generally designed to implement public policy, while others apply more specifically to multi-agency crime prevention initiatives.

89. It is important to ensure from the outset that the community accepts joint responsibility for initiating and sustaining these programmes. Initiatives are more likely to be supported if generated from the bottom up rather than imposed. A community-based, participatory forum such as neighbourhood committees or public meetings can help to facilitate the sharing of responsibility. Such forums can increase public awareness, facilitate joint decision-making and support the initiation and co-ordination of action. Caution should be exercised to ensure that agreements reached during the decision-making stages are not progressively watered down or undone during implementation. Open forums can assist in this by bringing potential conflicts out into the open before implementation begins. Programmes that attempt to confront crime at its roots will need to establish a philosophical consensus on the major contributory factors and the potential solutions. An articulate, charismatic and committed individual is helpful for the successful introduction of such programmes, which may have to start by generating a sense of community before residents can be expected to participate.

90. A major problem is that social measures are unlikely to be seen as an appropriate response by those who perceive the threat of crime as immediate, and favour reactive policing and punitive responses to convicted offenders. Social initiatives are inevitably long-term ones, and will require individuals with a strong and continuing sense of commitment. Programmes that adopt almost exclusively situational measures are easier to implement and maintain. They are less dependent on a consensus of values, are more likely to be seen as a direct response to crime and offer solid incentives for maintaining participation. But they may well be affected by technical difficulties. Measures may conflict with fire regulations or fail to meet technical specifications. Delays may arise because materials are unavailable or in short supply. But perhaps the most important potential side-effect of situational initiatives is that the poorly designed deployment of physical and surveillance measures can inadvertently lead to a "fortress" mentality, which increases fear of crime and can worsen a community's reputation.

D. Evaluation

91. The next stage is evaluation. It is important to assess whether and to what extent crime has been reduced and whether the reductions can be attributed to the preventive measures as opposed to other events. It is also important to know whether crime has increased, remained stable or declined in relation to the regional or national levels and whether, if crime has declined in the area, it has been displaced to neighbouring areas. Some assessment of the cost of the measures, in terms of input and output, should also be undertaken. This information can help to build up a body of theoretical and practical knowledge to assist managers and funders of crime prevention initiatives to make sounder decisions on what to support, at what cost, and for how long.

1. Sources of information

92. Information for evaluations can be acquired from official records, interview surveys and direct observation. All have various advantages and limitations and need to be treated carefully. Police and other official records are very convenient, but can be misleading. Not all crimes are reported to the police and some of those that are may not be recorded. Official records have not usually been prepared with research in mind, and they may lack continuity, reliability and objectivity. Interview surveys with victims and residents usually provide more accurate data and are especially useful for assessing whether target groups have been reached. They can complement official sources and provide useful information on the contrasting perceptions of the different parties affected. If they are to encompass enough crimes, however, victim surveys need to be based on large samples and therefore tend to be time-consuming. Direct observation can provide valuable insights into actual behaviour, but can also be costly, as well as open to criticisms of subjectivity. Teams of observers can counteract this tendency, but it may be difficult to ensure that individual assessments are comparable. A combination of observation with other research methods should nevertheless be a very useful tool for interpreting changes.

2. Process and outcome evaluations

93. There are two main parts to an evaluation. The first part is "process evaluation", which consists of an assessment of what actually happened (not what was intended to happen) and how the programme was implemented in practice. Some programmes are only implemented in part, others are hardly implemented at all or are quite different from what was originally planned. Statements about the effectiveness of a programme need to be qualified on the basis of what the process evaluation says about what actually happened and why. Process evaluations often make use of qualitative data to describe and assess not only the process but also the effects of the initiative on aspects other than the crime rate, such as social cohesion, levels of fear of crime and the ability of the community to organize itself around local issues and problems. The key function of a process evaluation is not to determine whether an initiative reduces crime or not, but the conditions under which certain outcomes arise. Information from process evaluations is particularly useful for assessing whether the lack of impact of an initiative is due to measurement failure (the evaluation was faulty), programme failure (the schemes were not properly or fully implemented) or theoretical failure (the idea that the preventive strategies chosen can reduce crime is itself false).

94. The second part is an "outcome evaluation", which assesses whether a programme has done what it set out to do. Preventive measures can only be assessed in relative terms - either in relation to other preventive measures or to an absence of preventive measures. The standard procedure is to compare an area or group that has been subjected to preventive measures with an area or group that has not. Ideally, areas or groups should be randomly assigned to preventive and non-preventive categories. In practice, however, ethical and practical difficulties rarely allow this to occur. It is therefore necessary to ensure that the differences between the target areas or groups and those chosen as controls are clearly shown. One problem with outcome evaluations based on the principles of an experimental or quasi-experimental design is that they can be easily affected by extraneous events, such as the introduction of other programmes and initiatives, which may themselves influence crime rates. There are other methods that can be used, such as "before and after" studies or attitude surveys, but these also have their limitations. In practice, the approach and methods adopted will vary

according to a range of factors, including cost, time-scales, the type of programme being evaluated and the skills and preferences of the researcher.

3. Problems and limitations of evaluation

95. Evaluation is technically and conceptually fraught with difficulties. Most evaluations have been either over-simplistic or seriously flawed. It is often impossible to differentiate the independent effects of individual measures in multi-strategic initiatives. Even where a positive effect is discernible, it is usually not possible to prove that the drop in crime was caused by the initiative or whether the reduction represented value for money. If the technical and financial resources for a rigorous, detailed evaluation are not available or forthcoming, it may be preferable to forgo evaluation altogether, since poor evaluations can easily produce misinformation.

96. The task of gathering basic information on the level of crime can be time-consuming, costly and even disruptive. Research can expose management deficiencies or unethical practices. Sometimes political or financial pressure to illustrate the effectiveness of an initiative can overrule objectivity. Researchers can, however, benefit from close collaboration with practitioners, even though they may have conflicting interests. Practitioners can help researchers to be realistic and pragmatic and to apply a degree of healthy scepticism to the validity of their results. They can help to put success or failure into a cost-related perspective. Evaluation should not be seen as a purely technical and scientific process and in some cases assessments by practitioners of changes can usefully complement measurements by independent evaluators.

97. A central problem in evaluation is to ensure that any reductions in crime in one area are not made at the expense of increases elsewhere or in other, more serious, offences. While displacement is difficult to identify and measure, it is essential that an evaluation includes an assessment of whether it has occurred and, if so, to what extent and level of seriousness. Of those deterred by preventive measures, some are more likely than others to commit offences elsewhere. Professional criminals are more likely to persist than petty opportunist offenders. Where an offender has the deliberate intention to commit a crime and the opportunity to do so, displacement is more difficult to avoid. In contrast, petty, opportunistic crimes, such as shoplifting, employee theft and vandalism, are less likely to be displaced. By asking offenders about their choice of targets and modus operandi, researchers can learn something about their decision-making processes, which can help to assess the likelihood and extent of displacement, including the conditions that would favour a change in target area. Similarly, monitoring changes in crime patterns over a period of time can help to determine when a crime is likely to occur, thus enabling practitioners to act accordingly.

E. International co-operation and exchange of information

98. Crime prevention requires that policy-makers and practitioners should be alert to experiences and developments in other countries and should participate actively in international exchanges. Crime prevention still being a relatively new area, it is particularly in need of the advocacy and stimulus that can arise from the transfer and cross-fertilization of ideas between countries and cultures. The first requisite is to set up institutionalized arrangements for the systematic exchange of information on policies and programmes. To this end, regular conferences, seminars and workshops should be held, which would bring together policy-makers, practitioners and researchers, as well as

representatives of the public. This could lead to the formation of an international association of crime prevention practitioners.

99. Some countries have taken the lead in establishing national computerized crime-prevention information systems. Discussions are under way to establish collaborative links between them and the International Crime Prevention Information Network based in the Ministry of Justice of the Netherlands, to enable all interested countries to participate in the emerging network. Integration of its data base into the recently created United Nations Criminal Justice Information Network would appear to be an important step in this direction. The exchange of information would be greatly facilitated if standardized indicators of the levels of crime and of relevant criminogenic factors were to become available. Standardized victimization surveys of the general public, in as many countries as possible, would serve this purpose very well. An international crime prevention journal devoted to the dissemination of practical information, published in several languages, would fill an evident gap. An immediate step could be the production of an international news bulletin focusing, for example, on forthcoming conferences, seminars and training courses.

100. To secure an exchange of information for practitioners on a more permanent basis, an international programme for safer cities, in which cities that are planning and implementing comprehensive crime prevention strategies could be "twinned", would provide an opportunity for regular meetings between policy-makers and practitioners with a view to having a mutual substantive feedback. Comparative evaluation studies would also play an important part. The importance of promoting evaluative research in crime prevention and disseminating research findings across countries and cultures cannot be too highly stressed. Countries need to learn from each others' successes and failures, particularly through comparative intercountry studies. Since mass media campaigns, public lectures and awards for exemplary projects are important in making the public aware of the role it should play in preventing crime, it might be opportune to organize an International Crime Prevention Week.

101. Countries should avoid the mistakes made elsewhere and benefit from successful experiences. In planning new towns and urban development or redevelopment projects, the insights gained in one context can be put into effect in others. The growing concern about the human environment, in both its social and natural senses, means that many developing countries are likely to need technical co-operation in formulating and implementing crime prevention policies and programmes. This calls for the involvement of bilateral and multilateral funding agencies, for example, the United Nations Development Programme, in crime prevention projects, as an integral part of socio-economic development. Crime prevention is an area in which much can be achieved through international co-operation.

Notes

1/ A/CONF.144/IPM.1, "Recommendations", sect. A, recommendation 9.

2/ Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. I, sect. A.

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CRIMINAL JUSTICE POLICIES IN RELATION TO THE PROBLEM OF IMPRISONMENT, OTHER PENAL SANCTIONS AND ALTERNATIVE MEASURES

Working paper prepared by the Secretariat

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INTRODUCTION

1. The topic "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures" was approved by the Economic and Social Council in its resolution 1987/49 as item 4 of the provisional agenda of the Eighth Congress, in pursuance of the recommendation by the Committee on Crime Prevention and Control at its ninth session. 1/ A discussion guide prepared by the Secretariat (A/CONF.144/PM.1) provided a basis for a policy-oriented elaboration of the topic in the course of the interregional and regional preparatory meetings for the Eighth Congress.*

2. In the present paper, an attempt is made to identify the principles underlying current correctional philosophy and practices, including emerging trends in the penal treatment of offenders. It is a field where "success" is elusive, at least as measured in the high recidivism rates prevailing in many countries. Scientific evaluation of the administration of imprisonment and its effects is still limited and the search for new approaches likely to minimize its human and material costs is as essential as ever.

3. The field of corrections is an area where few countries can claim to be "developed". Progress cannot be measured only in terms of bigger prisons, improved technology or even extended staff training. The highly industrialized countries may perhaps learn much from the alternative methods of social control that have been used for a long time in some other nations, both developed and developing.

4. With the exception of the limited number of cases where the death penalty is imposed, imprisonment is in practice the most severe penalty applied on those who violate criminal law. Prison is viewed more and more as the ultimate penalty for major violations of the law, and in many countries the ever-growing number of persons in prison poses serious difficulties. There are exceptions, but prison overcrowding has become a widespread problem in both developed and developing countries, and in many nations the construction of new prisons seems to have little impact on overcrowding, as the number of offenders incarcerated in them is increasing at an even faster rate. 2/

5. Alternatives to imprisonment are often seen as the solution, in the expectation that, if judges have a choice of sentences, which include sanctions to be served in the community rather than in custody, then fewer custodial sentences will be imposed and prison overcrowding will be avoided. That expectation has been found to be more complex in practice.

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*Scientific contributions were made to this topic at an international symposium held at Milan from 29 November to 1 December 1987 and organized, under the aegis of the United Nations, by the Centro Nazionale di Prevenzione e Diffesa Sociale, in co-operation with the International Society of Criminology, the International Penal and Penitentiary Foundation, the International Association of Penal Law and the International Society of Social Defence; at the European Meeting for Heads of Penitentiary Administrations, held at Messina and Rome from 6 to 12 November 1989 by the International Centre of Sociological, Penal and Penitentiary Research and Studies, the Henry Dunant Institute and the Helsinki Institute of Crime Prevention and Control affiliated with United Nations; and at a meeting organized by the International Penal and Penitentiary Foundation at Groningen from 8 to 12 October 1988.

6. One problem, for example, relates to the number of prisoners on remand. 3/ In some countries, as many as two thirds of the prisoners have not yet been tried, and many of them are later found not guilty. Similarly, there is evidence to suggest that, in many parts of the world, a much higher number of the prison population is made up of persons who are more prone to violence than was the case in the past. Some are terrorists, and others have been convicted of offences related to illegal drugs. The evidence also suggests a continuing problem of over-representation of indigenous minorities in many prison systems. The situation is worse for persons who are intellectually handicapped or mentally ill, and there are particular problems associated with the imprisonment of foreigners, and of women and children.

7. The possibility that prisons will become breeding grounds for acquired immunodeficiency syndrome could have particularly severe consequences. This is a major challenge for correctional administrators around the world, and as yet there is no universal agreement on what the most appropriate policies should be. The attention of the Congress is directed to the special report submitted by the World Health Organization (WHO).

8. Prison administrators and those responsible for non-custodial correctional programmes must also ensure that the human rights of offenders and staff are protected, and that demonstrably cost-effective approaches are employed. In a period of economic stringency, correctional administrators are increasingly being required to justify costs by referring to levels of recidivism, so playing on the public's fear of crime and its demands for safety. Some research findings indicate, however, that increasing the number of offenders in prison has little or no effect on the levels of recorded crime. 4/ Furthermore, research has been unable to demonstrate that particular correctional programmes (custodial or non-custodial, long or short) are consistently more effective than others in reducing recidivism, even though the cost differential between custodial and non-custodial measures can be readily established. 5/ Despite these findings, many countries are imprisoning more people now than they did 10 years ago.

9. There is a fundamental dilemma underlying much of the decision-making by Governments regarding the treatment of offenders. Outspoken members of the public, who are the actual or potential victims of crime, characteristically demand of their political leaders that criminals should be severely punished, and such demands are often taken up by the mass media. Hence, political pressures for more prisons, longer sentences and harsher conditions may become almost irresistible. The symbolism associated with punishing criminals seems to satisfy very deep needs within the human psyche, and well-entrenched and emotionally charged beliefs are difficult to change (A/CONF.144/RPM.3, para. 38). There is, therefore, a dual need: in the first instance, to evaluate the extent to which custodial and non-custodial sanctions do both protect and satisfy the public; and, in the longer term, to create a more informed climate of public opinion on advantages and disadvantages of imprisonment and alternative sentences.

I. MANAGEMENT OF PRISONS

A. General concepts and current issues

10. Consideration of the basic purposes of imprisonment has influenced the management of prisons in virtually all countries in recent years. It is increasingly accepted that imprisonment should not be destructive of the human spirit and personality, but, as the number of people sentenced to prison grows,

conditions in the prisons have, in many cases, even deteriorated. There is widespread agreement with the proposition that - if it is really necessary - imprisonment should be used as punishment, and not as a merely formal reaction. 6/ The Standard Minimum Rules for the Treatment of Prisoners 7/ set out what is generally accepted as being good practice in the treatment of prisoners and management of institutions. The Rules should stimulate constant endeavours to overcome practical difficulties in their application, in the knowledge that they represent the minimum acceptable conditions. Similarly, article 10 of the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex) requires that all persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person. From both a utilitarian and a human perspective, improved management is essential for implementing international norms and standards.

11. The acceptance of this underlying philosophical position can be seen in many correctional systems. Correctional administrators and prison staff are gradually coming to view the promotion of the constructive use of prison time through relevant education, training and work experiences as part of their responsibility. That is not to deny that prison managers continue to see their prime task as the maintenance of security and order, but it is now widely accepted that one way of achieving this is by keeping prisoners fully occupied with useful and interesting activities.

12. The effect of different sentencing practices on prison populations and procedures is being increasingly appreciated. In a number of countries, an approach has developed which is variously referred to as determinate sentencing, real-time sentencing, or truth in sentencing. This approach has resulted from public dissatisfaction with cases where the offender has been released after a much shorter time than the period set by the sentencing judge as a result of remission, good behaviour, early release or parole. Guidelines that are intended to reduce the possibility of unjustified disparities in the sentences imposed on offenders who commit similar offences have been introduced in some countries. In some guidelines, the object is to ensure that sentences accurately reflect the seriousness of different offences as determined by Governments. In neither case was the purpose to make prison management more difficult, but the "determinate sentencing" approach may reduce the power of the prison authorities to reward good behaviour by granting remissions or early release. Either approach could also increase the number of prisoners, and so exacerbate overcrowding.

B. Staff selection and training

13. Effective prison management depends primarily upon the quality and commitment of the staff. Without suitable staff, the most progressive philosophies and the most refined and enlightened policies and plans will be ineffective.

14. The role of the basic-grade prison officer is today much more complex and demanding than it was in the past. He or she is now expected to counsel and befriend, to advise and inform, as well as to be alert to possible breaches of security or orderly management. To undertake this wider role, prison officers must be better educated than in the past, they must be emotionally stable and of good character, and they must be given extensive training, both specific and general. In-service training is also necessary throughout a prison officer's career, regardless of whether or not the officer intends to seek higher responsibility.

15. Higher-level prison staff, including those in charge of institutions, also have to be carefully selected and trained, and the need for continuous retraining is as vital for them as it is for the lower grades. It is now widely recognized that previous experience in a disciplined service, for example as a commissioned army officer, might be relevant but is not sufficient for the higher levels of correctional administration. Even though many such appointments have been made in different countries, and many have been eminently successful, it is today considered prudent to require specific training in penological or correctional matters, particularly in the complexities of correctional philosophy, law and practice.

16. Whereas in the past it was considered sufficient for specialized prison staff, such as medical, educational and welfare officers, to be trained in their respective disciplines, it is now deemed important, in the interests of sound management, that all specialized staff should be given both intensive and extensive training in correctional matters, to enable them to understand and accept the aims and practices of the organization. That again raises the question of where and how resources should be allocated at the national and local level.

C. Classification of prisoners

17. For many decades, most prison systems in both developed and developing countries have used a prisoner classification system as one of the prime tools of management. Classification systems essentially involve judgements regarding the security risks that should be attached to different prisoners and, also, to their treatment or training needs. This information is used to assign the individual to a particular institution or part of it. Some systems are more complex than others but the process is essentially the same.

18. Classification systems can also be seen as major sources of information on the number of prisoners, at each level of security rating, who have particular treatment or training needs. That information can be used to plan new programmes, in order to ensure that, as far as possible, the prison system is responsive to the constantly changing patterns of prisoners' needs. Thus, classification is both a major operational technique and a significant aid to future planning within a progressive prison system. It is an aspect of prison management that has strong advocates and some critics, who see it as a "non-accountable" tool of control. 8/

D. Prison education

19. Some prison systems have provided educational programmes for many decades, and in recent years there has been a marked increase in such programmes. A number of specialized conferences dealing only with prison education have been held recently, sponsored by educational organizations that have also promoted other relevant initiatives. The Committee on Crime Prevention and Control, at its eleventh session, also considered prison education. Its discussions are reflected in Economic and Social Council resolution 1990/20, in which ways are outlined of enhancing the educational process in prisons. Even more extensive guidance is needed, however, if appropriate prison education programmes are to be established. For example, decisions must be made on their content, on the methods of instruction, on whether participation will be voluntary or compulsory, and on how education will be integrated into the total programme of prison activities and adapted to outside market needs. It may turn out that different countries have different needs.

20. It is agreed that participation in prison education should be mostly voluntary, rather than compulsory, except, perhaps, for illiterate prisoners. There is less agreement, however, on the appropriate content or curriculum of a prison education programme. Some argue for a replication of the courses offered in regular schools, while others recommend specially designed courses that take into account the different ages and background of prisoners compared with students in the outside world.

21. The latter view envisages very practical courses, focusing on correcting the cognitive and affective deficiencies that led to conflict with the law in the first place and that are likely to impede readjustment to society afterwards. Such an approach also sees training in social skills as vital and encourages courses on such topics as anger management for appropriate cases. Prisoners should not, however, be denied the opportunity to pursue more formal education and to take examinations at the secondary or tertiary levels, and should be encouraged to learn vocational or trade skills.

22. Training for the constructive use of leisure, including sports, music, arts and crafts and other hobbies, is generally acceptable as a legitimate part of a broadly based prison education programme. At a more formal level, for both academically and vocationally oriented programmes, experience shows that prisons are ideal locations for education by correspondence. This has the advantage that the pace of learning can be adjusted to individual needs and temperaments and that courses can generally be started and finished at any time, making them well-suited to the constantly changing nature of prison populations. For this style of prison education to be effective, it is however, essential that educational staff should be available within the prison to provide advice and encouragement. With appropriate support, very high completion rates can be achieved.

23. A major issue that must be resolved if prison education programmes are to be effective is their relation to other prison activities. When educational programmes were first introduced several decades ago, they were generally regarded by prison staff as a privilege in which selected prisoners were permitted to indulge in the evenings or during non-working hours.

24. Education was not meant to allow prisoners to avoid hard labour, then seen as the central requirement of a prison sentence. Slowly, this attitude has changed, and in many prison systems today half-time or even full-time participation in educational activities is actively encouraged by all levels of prison staff (A/CONF.144/RPM.1, para. 52). Prisoners engaged in educational programmes suffer no loss of wages or remission compared with prisoners who work in prison industries. A compromise that is gaining popularity is one whereby all prisoners devote half of their time to work and half to education. This arrangement has a certain attraction but it also implies a violation of the principle of voluntary participation in prison education.

25. There are many other practical and theoretical issues worthy of examination, including the provision of educational materials, but staffing is probably the most important. The need for additional training in correctional matters, referred to earlier, has a bearing on the question of whether it is more appropriate for education officers to be permanent employees of the prison system or whether education centres in prisons should be part of the general educational system and staffed by people who would otherwise be working in normal schools. Strong arguments can be made for either option and no preferred solution is offered. Part-time instructors should, however,

generally be qualified members of the local teaching services, whether they are volunteers or are paid for their work. As far as recreational activities are concerned, and perhaps for some academic and vocational training, there is no reason why prisoners with particular skills should not be involved as instructors, provided there is appropriate supervision. This approach might be particularly welcome in countries where qualified experts are in short supply.

26. Prison libraries have an important place in educational programmes and in the functioning of prisons in general. Libraries are a pillar of education rather than merely a recreational resource. A relatively recent development in a number of countries has been the establishment of specialized libraries of legal materials, sometimes as a legal requirement. Regardless of how specialized or general they may be, adequate libraries are gradually being recognized as essential in all progressive prison systems.

E. Prison industries

27. Since 1955, the Standard Minimum Rules for the Treatment of Prisoners have required that sufficient work of a useful nature shall be available to keep prisoners employed for a normal working day, but very few prison administrators can claim that they have always met this requirement. It is usually not possible to make prisons pay for themselves by forcing prisoners to work hard. Prison industries in some countries generate a significant financial return to the State, but it is usually less than the total cost of the prison system.* The cost of maintaining workshops, supplying raw materials and providing appropriate supervision is usually greater than the financial returns, regardless of the other costs of imprisonment. For quite different reasons, such as high unemployment in the general population, idleness of prisoners is an issue in many countries, which demonstrates the strength of the relationship between overall economic growth and the prison labour market. Prison industries, even if they are difficult to operate, provide some degree of normality to the lives of prisoners. These industries should be as similar as possible to industries in the outside world and the work done should be productive and not designed simply to keep prisoners busy. Whenever possible, the actual work done by prisoners should increase the probability of their gaining employment after release. Tasks that improve the skills of prisoners, and industries in which there are employment vacancies in the wider community are, therefore, to be preferred.

28. In a number of developed and developing countries, private companies have established workshops within prisons, and these arrangements have generally had a considerable effect on the efficiency of prison industries. For the prisoners there is a clear advantage compared with more traditional prison industries, as normal expectations of productivity apply and, in some cases, the wages paid are equivalent to those outside. In many countries, the relationship between prison industry and external commercial interests, either management or trade union, is a sensitive one.

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*For an international review of the subject, see David Biles eds., Current International Trends in Corrections (Sydney, Federation Press, 1988) and a publication by the United Nations Interregional Crime and Justice Research Institute giving the results of the survey on prison labour conducted in 72 countries (forthcoming).

29. An interesting new development is the establishment in some countries of prison industries' commissions or corporations. These bodies use modern industrial skills in manufacture and marketing, and employ prison labour as would an employer on the outside. The main difference between these bodies and joint-venture arrangements made with private companies is that the Government retains control and there may be encouragement to support national goals, such as increasing food production or producing goods for export. In either case, the main advantage for prison management is that prison industries offer a greater sense of purpose.

F. Resettlement programmes

30. Virtually every prison system in the world would claim to be taking some steps to help prisoners to readjust to, and resettle in, the community after their release. The size and relevance of those steps vary widely and hardly any system would claim that everything possible was being done to ensure the harmonious resettlement of every ex-prisoner. The statistics on recidivism clearly indicate that in a high proportion of the cases, the ex-prisoner has not been effectively resettled.

31. There is some evidence to suggest that if prisoners are released conditionally on parole, there is a slightly lower rate of recidivism than if they are released after the sentence has expired. It has been suggested that this demonstrates the value of post-release supervision and guidance by parole officers, but it is possible that the finding is a simple matter of prisoners with better resettlement prospects being granted parole. Similarly, studies have shown that other early-release programmes have produced markedly lower levels of recidivism than the norm, but these findings could be interpreted as indicating the perspicacity of the correctional staff who selected the prisoners for early release, rather than the impact of the programme on those selected. 9/

32. A number of prison systems in different parts of the world have experimented with pre-release courses, offered in the last few weeks or days before discharge. They have not been systematically assessed (and any evaluation would be complicated by the selection issues mentioned above), but at an intuitive level they seem to be eminently sensible. Such courses have characteristically incorporated discussions on such topics as the legal requirements of parole, family and interpersonal relations, job-seeking, personal budgeting, health and hygiene, the use of leisure etc. Whatever their ultimate impact, pre-release courses would seem to be desirable for anyone who has served several years in prison.

33. Resettlement is also likely to be encouraged if support and practical advice are available to ex-prisoners from voluntary organizations, such as prisoners' aid and various after-care support groups. Some of these, though voluntary and largely dependent on public support for funding, have established after-care hostels that provide a bridge between the total control of the prison and total freedom in the community. As with other resettlement programmes, their work has not been fully evaluated, but on humanitarian grounds alone they would seem to warrant the full support of Governments and the public.

G. Private prisons

34. An extremely interesting recent development has been the emergence of a small number of penal institutions owned and operated by private companies. 10/

This has been the subject of intense debate, opponents arguing that only Governments should have the authority to restrict the liberty of citizens, while proponents refer to increased efficiency, and hence the saving of public money; they also point to the high level of government supervision that safeguards the rights of prisoners. The proponents also argue that private prisons should be accepted in the same way as private schools and hospitals. Furthermore, in some countries it has been the standard practice for a long time that juvenile offenders should be dealt with in institutions controlled by private, often religious, organizations.

35. At least one major review 11/ has concluded that private prisons are not justified, for the following reasons:

(a) Neither theory nor the limited information that does exist suggests that incarceration is very well suited to profit-seeking organizations, despite their advantages, which are, chiefly, cost-consciousness and an aptitude for innovation;

(b) There are serious structural barriers to genuine competition for prison management contracts; not only are incumbent contractors likely to become entrenched, but performance may be so difficult to monitor and evaluate that quality-based competition is unlikely to develop;

(c) In general, incarcerating people leaves relatively little scope for technical progress in trimming costs; once the decision to imprison has been made, there is not much room for innovation;

(d) Even if private-prison corporations do succeed in cutting costs, there is unlikely to be sufficient competition in any given community to ensure that the savings result in diminished government budgets for corrections;

(e) There is a good likelihood that government contracts with prison corporations will not fully protect either the interests of the public or the prison inmates;

(f) While private prisons might not be as unaccountable or inhumane as some critics have predicted, neither do they offer anywhere near the advantages claimed by their advocates;

(g) Incarceration today remains a symbolically potent public function; if the widespread uneasiness among policy-makers about introducing profits into punishment and corrections is to be assuaged, evidence will have to be produced of far more compelling practical advantages than those that the private prisons are likely to offer.

36. These conclusions are clearly not the last word, as a number of different countries are either actively or potentially developing private prisons. A compromise that may find support is one in which many separate aspects of prison management, such as food and health services and even perimeter security, are undertaken by private companies under contract. If these services can be supplied reliably and at a lower cost, objections will be difficult to sustain, even though they will certainly be made by public employees, associations or unions.

H. Human rights and grievance procedures

37. The past three or four decades have been marked by very significant advances in all parts of the world in the concept of human rights. The

United Nations has been in the forefront of the movement towards change and has influenced a number of States to make legislative or administrative provision for the protection of the rights of their citizens (see A/CONF.144/18). At an informal level, education on human rights issues has led to a wider understanding of the problem. These developments have had an impact on the management of prisons and the lives of prisoners.

38. One of the most effective ways of observing the human rights of prisoners is to provide a readily accessible, efficient and expeditious mechanism or procedure for resolving grievances. Prisoners should be aware of and understand the procedure, and there should be either independent or judicial review of the decisions made by prison staff. It is also highly desirable that more than one avenue should be available for the lodging of grievances. Thus, it is not unreasonable for a prisoner to be permitted to write, without censorship, to a political leader or to an ombudsman, and also to lodge an oral complaint with the officer in charge of the prison, a visiting magistrate or judge. Such an array of choices might seem like an administrative nightmare, but no difficulty should arise if all concerned are fully aware of the procedures. Normally, all grievances would initially be referred back to the officer in charge of the prison; only if they are not resolved should they be considered by the next highest authority, which might be an ombudsman or an independent body, as well as a supervisory judge or a public prosecutor (see A/CONF.144/11).

39. The form of judicial review of administrative decisions made by prison management is a matter for each country to decide. Since prisoners tend to generate a remarkable number of complaints, the question may arise as to whether particular prisoners could be declared vexatious complainants, in a manner similar to the declaration of vexatious litigants in civil law. At the same time, however, taking into account the exceptional degree of total control by the state which is inherent in imprisonment, prisoners should be entitled to particular safeguards and guarantees. 12/ The draft basic principles for the treatment of prisoners, recommended by the Committee on Crime Prevention and Control for adoption by the Congress 13/ seek to tackle these issues.

I. Preventing the spread of the acquired immunodeficiency syndrome (AIDS)

40. The possibility of prisons becoming a breeding grounds for the AIDS virus is one of the main challenges facing correctional administrators around the world (A/CONF.144/RPM.1 and Corr.1, paras. 53 and 54, and A/CONF.144/RPM.2 and Corr.1, para. 4). The danger arises largely from the fact that in both developed and developing nations intravenous drugs are widely used in many prisons and homosexual activity is also common, even though denied by some prison administrators.

41. Current evidence has not yet shown that prisons have become incubators for AIDS. Indeed, it will not be possible to establish the extent of transmission of infection in prison without compulsory testing at different stages of a sentence, which would raise serious problems of human rights and would be very costly. The actual numbers of positive cases of human immunodeficiency virus (HIV) detected among prisoners is relatively small in most countries, but this picture could change at any time. A significant difficulty in assessing the seriousness of the situation lies in the fact that in only very few prison systems is there a complete screening of prisoners for the virus both on reception and on discharge. Without this, any attempt to gauge the prevalence of the virus and the extent of its transmission within the system will

necessarily be inadequate. Furthermore, even when testing is conducted, there is a period of some days, or even weeks, before the results are known, and HIV infection has an incubation period of between three weeks and four months. This latter consideration has led to the proposition that all prisoners should be regarded by staff as potentially infected with the virus and hence great care is advised in any contact with prisoners who have open wounds or sores.

42. One great problem for prison administrators is to determine what action should be taken when prisoners have definitely been identified as being infected by the AIDS virus. With skilled medical treatment, the infected individual may live for several years, initially may show no signs of illness, and, within the normal range of human contact, will not be infectious. One management response is to impose strict isolation on infected prisoners, but this would seem unjustifiably punitive. An alternative response is to keep the infected prisoner in the normal prison system of work, education and leisure, but to maintain a higher level of discreet surveillance. Even this more humane approach raises problems of who should be informed of the prisoner's condition, some administrators taking the view that the prisoner should only be informed of the outcome of the test by a trained counsellor. At the other extreme are those who would argue that all persons within the prison, including other prisoners, as well as the prisoner's usual sexual partners outside, need to be informed when a prisoner is found to be HIV-positive, in order to ensure that appropriate precautions are taken.

43. Another approach that has some support is for HIV testing to be conducted compulsorily in prisons but on an anonymous basis. The results would give an indication of the extent of HIV infection, but would not provide information about infected prisoners, and thus the ethical problem of deciding who should be informed is avoided. This approach certainly prohibits discrimination and further suffering of infected prisoners, but does not improve prevention. It is therefore doubtful whether it justifies the cost.

44. In this area of considerable controversy, AIDS education is probably the most controversial as far as prison management is concerned. In some countries, AIDS education programmes in the community stress two major preventive practices: the promotion of safe sex by the use of condoms and the prevention of infection through shared needles by either supplying new needles to heroin addicts or encouraging rigorous needle-cleansing practices. This message may often be passed on to prisoners and prison staff, but it is seen as a direct contradiction of prison policy, as most, if not all, prison administrations do not allow the supply of condoms or clean needles. It is generally argued at the political level that to supply condoms and clean needles in prisons would be seen by the public as encouraging both homosexuality and drug use within the prison system. This political dilemma creates significant problems for prison management. It is recognized, of course, that AIDS education can also convey factual information about how the disease is spread without giving a specific message for prevention. Such an approach, however, is likely to lead to a number of differing, perhaps contradictory, policy proposals. An even more intense level of debate on AIDS in prisons is therefore certain to arise in the near future. The attention of the Congress is drawn to the report submitted to the Congress by WHO on this topic.

J. Coping with overcrowding

45. As emphasized at most of the preparatory meetings for the Eighth Congress, prison overcrowding has become widespread. There certainly are exceptions but the vast majority of prison systems, in both developed and developing nations,

are having difficulty in making adequate provision for the increased numbers of persons being sent to prison as a result of both more severe sentencing policies and a greater number of people being brought before the courts. Prison overcrowding is both undesirable in itself and a likely source of other penal ills (A/CONF.144/RPM.1 and Corr.1, para. 41). In particular, the relationship between overcrowding and prison violence seems established, although the link with recidivism is less clear, at least in the countries studied. 14/ In both respects, the degree of overcrowding was a much more important factor than the simple size of the prison.

46. A major factor in controlling the number of people sentenced to prison is, of course, the scope of the criminal law itself.* In the discussion that follows, the influence of changes in legislation is taken not only as a major factor in the environment within which prison overcrowding is considered but also as a factor which, for present purposes, cannot be controlled. There are essentially two different strategies to control the problem of overcrowding, apart from the obvious policy of building more prisons, or extending existing ones - the policy of "system expansion". These are frequently referred to as "front-end" or "back-end" mechanisms. "Front-end" mechanisms supply courts with a wide range of realistic non-custodial options in the hope that this will result in a smaller number of persons being sentenced to imprisonment. But this does not happen. In one country where extensive research has been done, the persons who are sentenced to the additional options, such as community service orders, attendance centre orders, home detention etc., are often found in practice to be persons who would not have been sent to prison even if those options had not been available. 15/

47. Such an expansion of the numbers of persons in one or other type of correctional programmes is sometimes referred to as "net-widening", since the total number of persons caught in the net of correctional treatment is increased rather than decreased. One strategy would be to limit strictly the judicial discretion of judges and magistrates, in order to ensure that these new options are applied only to persons who would otherwise definitely be sentenced to imprisonment. As pointed out, however, in the working paper prepared for the research workshop on alternatives to imprisonment (A/CONF.144/13), there are several other options that can be pursued.

48. A practical step that can be taken to avoid overcrowding is to establish court advisory services. Such services must be able to provide advice to judges and magistrates, either in the form of fully researched pre-sentence reports, or by way of statements presented to the court after a short adjournment of the case to establish the basic facts. If the members of the court advisory services are persons with wide experience in correctional work, and if there is clear legislative and administrative support for the proposition that a sentence of imprisonment should only be imposed as a last resort, the establishment of such services may greatly assist in reducing overcrowding. That suggestion raises some fundamental questions on the political and judicial implications of the overcrowding problem, which are reviewed at the end of this section.

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*That is, the scope of criminalization and decriminalization. See, for example, Norman Abrams, "The new ancillary offenses", Criminal Law Forum, vol. 1, No. 1 (Autumn 1988), pp. 1-40.

49. The second, "back-end", approach is used as a means of releasing people who are already serving prison terms. The options include the traditional practice of parole but also a variety of other early release mechanisms with varing degrees of supervision. The simplest approach, at relatively little additional cost, is to be more liberal in granting remission for good behaviour, with or without supervision. For example, if a prison system regularly takes off one quarter of the sentence as remission for good behaviour, and if that system changes the remission rules so that one third of the time is automatically available for remission, the total number of prisoners may be expected to decrease by a little over 8 per cent. Reduction in the number of prisoners is virtually guaranteed, as the granting of remission is not necessarily a matter of judgement by individual staff. A similar direct impact on prisoner numbers may be achieved by general amnesties. This way of coping with prison overcrowding has many attractions, but does carry with it considerable political dangers. Political leaders and the general public may well think that the prison system has become unduly lenient and judges may take the view that the sentences they impose are being undermined by prison administrators. 16/

50. Another strategy is to focus on specific categories of prisoners and try to reduce their numbers. For example, the number of prisoners on remand may decrease if bail is more liberal or if correctional administrations, or perhaps the police, provide some degree of pre-trial supervision to persons in that legal situation. Similarly, it may be possible to propose alternative arrangements for those who would otherwise be sentenced to prison for drug-related or alcohol-related offences. Specially designed treatment centres are more appropriate for this category of offender, but represent a heavy drain on resources.

51. In some countries an attempt has been made to solve prison overcrowding by deferring the application of prison sentences until sufficient space is available. 16/ Thus, non-dangerous offenders may have to wait some weeks or months after sentencing before they actually go to prison. This does not, of course, provide a long-term solution.

52. All of the approaches outlined above are well known and none is likely to be a panacea. In extreme cases, whole prison systems have been ordered by the superior courts to reduce the number of prisoners so that their rights and dignity can be protected. This may provide short-term relief, but in the long term the solution will be found only by providing more prison space, by reducing the number of persons sent to prison, or by reducing the average time that prisoners stay inside.

53. The problem of overcrowding is, therefore, important on at least two levels. First, it is important in itself. It is an infringement of the Standard Minimum Rules for the Treatment of Prisoners; it is a form of "extra" punishment, in addition to the deprivation of liberty; and it has measurable negative side effects. 14/ Secondly, while the problem itself may seem to be relatively self-contained, the solutions to it raise basic questions as to the objectives, priorities and social role of criminal justice, and as to the relationship between the different agencies, in the light of the central role of the judiciary in the sentencing process.

54. It is generally accepted in criminal justice systems that the judiciary has indeed two key roles: the conduct of the trial in accordance with the law, and the determination of the appropriate sentence. The judiciary are often sensitive to any apparent threat to their autonomy or judgement, and

are under constant observation by other officials in the system who see the sentencing strategies of the judiciary as representing the rightful punishment for those who have been apprehended and convicted. That in itself may exert significant pressure on them to impose punitive sentences and conservative strategies, which, combined with the pressure from large sections of the public, who wish to see convicted criminals dealt with severely, may reinforce the conservative view often associated with the majority of the judiciary. The changes introduced by both "front-end" and "back-end" mechanisms run counter to, and conflict with, these conservative influences, as they inadvertently reduce key roles of the judiciary in the sentencing process.

55. The different lead times before policy changes take effect can cause marked increases in the size of the prison population, and consequent overcrowding. One particular instance is the time difference between changes in sentencing policy and the building of new prison facilities. Jurisdictions can, and do, decide to penalize certain categories of crime or offenders much more severely, either by making the sentences longer or by sending more offenders to prison, or both. In this case, the increase in the prison population will begin to appear quite soon, and will be significant within two or three years. The average time taken to build a new prison is seven or eight years. In such circumstances, "back-end" mechanisms, particularly early release for selected prisoners convicted of less serious offences, may be appropriate or indeed necessary.

56. Two conclusions may be drawn. The first is that any discussion of overcrowding, unless it refers to the building of new facilities, must consider the fundamental objectives of both sentencing and imprisonment, and of practices and priorities in sentencing. In the Basic Principles on the Independence of the Judiciary, 17/ it is stated in principles 1-6 that judges and other sentencing authorities are to be free from political pressure and influence. That does not mean, however, that they should not operate in a political environment. Above all, the resources available to implement sentences, especially the number of prison places, are determined through the political process of government. Judges should operate independently of the State. But if they interpret "independently" to mean that they should not take into account the impact of their decisions, those decisions may then be revised by other authorities, not necessarily in the legal field, in a way they find undesirable but cannot control.

57. The second conclusion is that it is important to highlight the difference between the appropriate uses of "back-end" and "front-end" mechanisms. The former are useful in times of emergency, for example when there is a sudden change in the level of admissions to and average sentence served in prison; or when there is a need to draw attention to the perilous state of the prison system. "Back-end" mechanisms are not appropriate for regular or repeated use, as they can lead to an eventual deterioration of the whole situation.

58. Any long-term and lasting solution, therefore, should come from "front-end" strategies. There is no alternative to the greater use of alternatives. The reduction of prison overcrowding demands different sentencing strategies, and the sentences cannot be considered apart from those who impose them.

II. SPECIAL CATEGORIES OF OFFENDERS AND PRISONERS

59. There are certain categories of prisoners who present special problems to the officials responsible for the management of prisons (see paragraph 6

above). Those can be classified as problems of control or of special treatment, and problems relating to the observance of the human rights of the prisoners. Such distinctions overlap, but in the present section the categories are presented according to the amount of attention they are thought to require from the Congress.

A. Terrorists and violent prisoners

60. A special problem facing prison administrators in many countries is the management of persons convicted of offences that may be classified as a form of terrorism. In many cases the prisoners see themselves not as criminals but as freedom fighters or prisoners of war and therefore feel that they are under no obligation to conform to the requirements of the prison system. On the contrary, in many cases they would see themselves as duty bound to attempt to escape or to disrupt the smooth running of the system.

61. It is often in the national interest for terrorists to be securely held, which may necessitate the construction of special facilities. A further difficulty in maintaining security in some of these cases is that terrorists often have significant support groups in the general community, which may arrange for the introduction of contraband, including firearms.

62. The observations on the management of terrorists apply in many respects to the management of prisoners prone to violence, although the two categories are very different in most other respects.

63. In such extreme cases, it is sometimes necessary for prison managers to restrict visits to the prisoners and to maintain virtually constant surveillance over their activities. The establishment of such security régimes is very likely to invite accusations of denial of human rights and lack of respect for human dignity. In such situations, the underlying dilemma of prison management is forced into the limelight.

B. Drug offenders

64. One of the major reasons for the increase in prison populations and overcrowding has been the increase in the number of persons convicted of drug-related offences. Many of these offenders do not otherwise have a criminal record and many have been convicted of a single, albeit usually serious, offence, perhaps of attempting to import or distribute illegal drugs of high value. These people, as a group, are in some respects different from prisoners convicted of more conventional offences. Drug offenders create problems for prison management, because in most cases they were themselves drug users in the community and may endeavour to continue taking drugs. Furthermore, experience has shown that it is virtually impossible to maintain a totally drug-free environment in a prison without the use of very repressive measures covering all aspects of prison life.

65. Notwithstanding the difficulties, prison administrators see themselves as obliged to make every effort to restrict the availability of drugs within prisons and to that end make use of random searches, of sniffer dogs, and of the inspection of visitors. In a number of prison systems, urinalysis is used, either at random or by targeting suspect groups. But even these measures are rarely completely successful. Many prisoners have been known to display remarkable ingenuity in overcoming the rules imposed by prison management.

66. Many drug offenders will voluntarily participate in treatment programmes if given the opportunity. A number of prison systems provide methadone programmes, but others do not allow them, as they are deemed to substitute one form of drug addiction for another. As with so many other areas of prison administration, there is no universal agreement on the right approach.

C. Prisoners on remand

67. In a number of developing countries, the proportion of all unconvicted prisoners, sometimes referred to as pre-trial prisoners, is higher than that of convicted prisoners. The problem of how to manage unconvicted prisoners is both widespread and growing. This is largely because court systems are unable to cope with the increase in the number of accused persons sent to trial (A/CONF.144/IPM.4, paras. 19, 38, 43-44 and 52).

68. A central dilemma in managing remand prisoners is that they must be recognized as innocent until they have been found guilty by a properly constituted court of law; there can thus be no justification for them to suffer any significant degree of deprivation or punishment. Nevertheless, it has been claimed in some countries that the conditions they are exposed to are often even worse than those for convicted prisoners.

69. This has led to strong pressure for the establishment of remand centres away from the prisons, where the conditions are relatively good, and where contact between persons remanded in custody and their legal advisers is also facilitated. Even so, a basic problem remains unresolved, as deprivation of liberty is regarded as the major punitive element of the criminal justice system.

70. A further dilemma stems from the fact that a number of recent studies have shown that a significant proportion of those remanded in custody are very likely to be sentenced to non-custodial options or to be acquitted, or to be released following conviction on the grounds that the time served in custody awaiting trial is either equal to, or greater than, the sentence that would have been imposed if the trial had occurred immediately after the offence. These results raise serious questions about why these persons were remanded into custody in the first place, rather than being released on bail, perhaps with some supervision, while awaiting trial. Regardless of the merits of this argument, it is clear that the main approaches to be pursued to reduce the number of prisoners on remand relate to more liberal systems of release on bail and more efficient court systems, which would reduce delays in bringing offenders to trial. Compensation for wrongful remand is also important.

D. Intellectually handicapped and mentally ill persons

71. In recent years there has been a world-wide trend to de-institutionalize mental health services, so that today the number of people in mental or psychiatric hospitals, previously known as asylums, is considerably smaller than it was 20 or 30 years ago. This development has generally been seen as progressive and humane, but it has had the unfortunate consequence of leaving more intellectually handicapped or mentally ill persons in prisons. With the possible exception of non-violent sexual offences committed by intellectually handicapped persons, research has generally failed to show that either the intellectually handicapped or the mentally ill are any more likely to commit criminal offences than members of the general community. 18/ Because of a lack of social competence, communication difficulties and negative public

attitudes, however, the chances of such persons coming into conflict with the law are relatively greater. It is not always understood by the lay public, for example, that intellectual handicap and mental illness are quite distinct and those suffering from the former rarely represent a danger to others.

72. Once persons with such a handicap become involved with the criminal justice system and are sentenced to either custodial or non-custodial measures, they present management problems for the same reasons that brought them into conflict with the law in the first place. Intellectually handicapped persons, in particular, are likely to be ridiculed or bullied by other prisoners and, out of prison, they may have difficulty in understanding or remembering instructions given to them by probation officers. Similarly, communication difficulties are likely to cause problems with mentally ill offenders both in prison and in the community. One of the most common mental illnesses, depression, is characterized by a withdrawal from contact and communication with others, and manic or paranoid states may be disruptive, if not (occasionally) threatening. The presence of these categories of persons in correctional systems clearly demonstrates the need to make expert advice, particularly from psychiatrists, available to custodial and non-custodial correctional workers.

73. Notwithstanding these difficulties, most experts agree that it is generally preferable for intellectually handicapped and mentally ill offenders to be treated as far as possible in the same way as others. To do otherwise is likely to reduce their capacity to function effectively either in prison or in the outside world after release. Special sections for them within prisons, for example, would not seem to be in their best interests.

E. Foreign citizens

74. The rapid growth of international travel and the increase in migrant workers has led to larger numbers of foreign citizens in many countries. The vast majority behave in an exemplary fashion but a few come into conflict with the law, and some end up in prison, creating a growing percentage of foreign prisoners. Persons involved with the consumption of or trafficking in illegal drugs are particularly likely to be incarcerated.

75. The consular services of diplomatic missions often provide advice and assistance to their fellow citizens in prison, but in many cases there is little they can do to ensure medical treatment or meet other needs. Frequently, foreign prisoners experience acute isolation as they may not be fluent in the local language and may not fully understand the culture and customs of the country.

76. These problems have led to wide support for the principle of allowing foreign prisoners to serve their sentences in their home countries. The Seventh United Nations Congress adopted a model agreement on the transfer of foreign prisoners. 19/ While a number of nations favour the international transfer of prisoners, and a number of treaty arrangements have been made, many countries have taken the view that sentences should be served where the offence took place. Furthermore, there is sometimes concern that the receiving country will not always require the sentence imposed in the sentencing country to be served in full.

77. The trend for inreasing numbers of nations to become parties to multilateral or bilateral treaties for the transfer of prisoners is nevertheless clear. In 1988, five more countries became party to the Council of Europe

Convention on the Transfer of Sentenced Persons, bringing the total number to 17. Greece, Hong Kong, Luxembourg, the Netherlands and Switzerland have joined Austria, Canada, Cyprus, Denmark, Finland, France, Ireland, Spain, Sweden, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Eight other countries have signed but not yet ratified the Convention and the Eighth Congress will have before it a draft Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released. 20/ Increased attention is also being given to the cross-national imposition of other sanctions (A/CONF.144/IPM.4, para. 37).

F. Women and children

78. In all prison systems, the number of female prisoners is very small. Women prisoners very seldom constitute more than 5 or 10 per cent of the total, and in some systems their proportion is as low as 1 or 2 per cent. It is therefore sometimes difficult for a full range of educational and training opportunities to be offered, particularly as in most systems females are segregated from males.

79. In a small number of countries, experiments have been conducted with co-educational prisons. Male and female prisoners share working and recreational facilities, but in nearly all cases they are required to sleep in separate quarters.

80. A particular problem relates to the action that should be taken in relation to babies and young children of female prisoners. There is no universal agreement: some prison systems will not permit any infants or children within the prisons; others will allow a female prisoner to keep a child until it reaches a certain age, generally not more than two or three years. Most experts support the notion of allowing a baby or young child to stay with its mother in prison, but other matters must be considered, such as the length of the sentence, the temperament of the mother and the suitability of alternative arrangements. 21/

G. Indigenous peoples and other minorities

81. In a relatively small number of countries there are identifiable groups of descendants of the original or indigenous population, which was conquered or outnumbered by a larger number of invaders or settlers, for example the native Indians in the United States and in Canada, the Aborigines in Australia and the Maoris in New Zealand.

82. Indigenous minorities are almost invariably overrepresented in the prison systems, frequently to a gross extent. The underlying reasons are probably associated with social and economic deprivation and loss of identity. In many cases many of the arrests of indigenous persons by the police are associated with alcohol consumption. It is claimed, however, that racial discrimination may also be a major factor. The ultimate solutions to overrepresentation of indigenous minorities in prisons are to be found in community attitudes rather than within the prison systems, but it is necessary for prison administrators to recognize the special needs of these groups and to provide for their cultural aspirations and religious observances. On humanitarian and health grounds and to facilitate their adjustment to the prison régime, prisoners from indigenous minorities should be allowed to spend time together, rather than being isolated.

H. Solutions to overcome management and other problems relating to special categories of offenders and prisoners

83. In considering measures to overcome the problems presented by prisoners listed in subsections C-G above, the Congress may wish to take into account the related activities of the Commission on Human Rights and its Sub-Commission on Protection of Discrimination of Minorities to protect persons in these categories in general, irrespective whether they are detained or not. This would apply in particular to the draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care, 22/ as well as to the international standards being elaborated on the human rights of indigenous persons.

84. With regard to female prisoners, the Congress may wish to discuss the results of the work of the Commission on the Status of Women, considered in the report of the Secretary-General (E/CN.6/1988/9) and Economic and Social Council resolution 1990/5.

85. From a managerial point of view alone, however, it is clear that, in order to meet the legitimate needs of special categories of offenders and prisoners, changes are needed in the traditional methods of recruitment and training of criminal justice staff. With the growing internationalization of criminality on the one hand and humanization of criminal justice policies on the other, more diversified treatment of offenders and prisoners should become an indispensable matter for discussion at the international level.

86. This is why it is so important to exchange experiences between prison managers bilaterally and multilaterally. Conferences organized annually in the Asia and Pacific region, and seminars held recently in the African, Latin American and European regions - all these events generate valuable material for follow-up. The Eighth Congress has before it draft resolutions submitted by the Committee on Crime Prevention and Control on several of the managerial issues discussed above. 23/ The Congress may wish to refine the texts by taking into account the results of the discussions under item 4 (topic II) of the provisional agenda.

III. ALTERNATIVES TO IMPRISONMENT

87. The long-standing interest of the United Nations in increasing the use of penalties that do not involve a prison sentence is well known. The traditional expression "alternatives to imprisonment", although retained in this paper to emphasize that long tradition, is tending to be replaced by such terms as "non-custodial measures (or sanctions)" or "community based sanctions". At the interregional preparatory meeting on this topic it was observed that the term "alternatives" implied that a prison sentence was, in some way, a normal or natural sanction (A/CONF.144/IPM.4, para. 19) not, perhaps, a desirable interpretation. An important feature of this development is the increasingly common view that non-custodial sanctions are not "soft" alternatives, since they comprise a public denunciation of the act and make quite stressful demands on the offender.

88. The trend towards non-custodial measures, therefore, can be seen as being driven by at least four factors: evidence that it is difficult for prison to reform offenders so that they reintegrate into society (although that process may well vary considerably from one culture to another); the inescapable

evidence that prison is expensive; the spreading problem of prison overcrowding; and the growing, more recent, belief that offenders can be both punished and rehabilitated without being sent to prison.

89. The data provided in the second United Nations survey of crime trends, operations of criminal justice systems and crime prevention strategies (1975-1980) (A/CONF.121/18 and Corr.1) suggests that the application of non-custodial measures does not vary with the national prison rates. The relationship tends to be a direct one, the availability of more non-custodial sanctions being related to higher prison populations. That in turn suggests that the provision of a range of non-custodial options does not automatically reduce the use of custody, or rather does not do so to such an extent as to change existing national differences in prison use.

90. These factors have given rise to the realization that standards are needed for the implementation of non-custodial sanctions, because they, like prison or any other punishment, are capable of being unfairly or inappropriately applied. Since the Seventh Congress, the Asia and Pacific Regional Institute for the Prevention of Crime and the Treatment of Offenders and the International Penal and Penitentiary Foundation (IPPF) have both taken initiatives in this respect. One outcome is the draft United Nations standard minimum rules for non-custodial measures ("Tokyo Rules"), 24/ which are before the Congress for adoption. The Rules have been developed and revised in the course of many meetings. They represent a consensus of contemporary progressive opinion on the appropriate scope of and legal safeguards for non-custodial measures, guidance for action at the different stages of the criminal process, modalities of implementation, human and other resources and planning and evaluation. The Standard Minimum Rules for the Implementation of Non-Custodial Sanctions and Measures Involving Restriction of Liberty (the "Groningen Rules") are also brought to the attention of the Congress, as representing the contribution by IPPF to the resolution of the question of non-custodial measures.

91. The main focus of the Congress at the meetings for which this paper is the working document is the discussion and adoption of the "Tokyo Rules". Three other documents are also relevant: the report of the Interregional Preparatory Meeting on topic II (A/CONF.144/IPM.4), the reports of the Secretary-General on alternatives to imprisonment and the reduction of the prison population (A/CONF.144/12), and on research on alternatives to imprisonment (A/CONF.144/13). All these reports provide extensive coverage and convey the prevailing opinions in many countries.

IV. COMPUTERS AND NEW TECHNOLOGY

92. The massive advances in computer technology have had a marked effect on all aspects of business and government, including prison administration, such as the installation of centralized prisoner record systems stored on computers and the monitoring of all transactions within a prison system, including the movements of prisoners and staff between institutions. The introduction of computerized management into prison systems requires that special attention be paid to staff development in order to reduce the inevitable problems and resistance associated with any new system. A relatively small number of staff members have to develop a fairly high level of competence with computers. It is also essential, however, that all prison staff acquire a basic understanding of what computers can do to assist management. This general training is aimed largely at increasing confidence and reducing fear of the unknown, including staff members' apprehension that they might be replaced by machines.

93. Other aspects of new technology have not always, however, had such a positive impact as computers. Automatic control systems within prisons, for example, including the electronically controlled opening and closing of cell doors, have reduced the level of interpersonal contact between prisoners and staff. Closed circuit television surveillance, either of perimeters or within prison buildings, also depersonalizes the prison environment. All this may have undesirable psychological and managerial consequences, as well as negative implications for human rights.

94. Computers may have a direct role to play in staff training. The interactive nature of computerized operations makes them ideal for the transmission and assessment of new information, including all the prison records and prison rules and regulations. In the long run, the increasing availability of both computers and other aspects of new technology should allow more staff time to be devoted to dealing face-to-face with prisoners, thus increasing the level of interpersonal interaction rather than reducing it. The discussion on these and other items in the framework of the Eighth Congress demonstration workshop on computerization of criminal justice systems will help in developing relevant recommendations proposed for the Congress in two resolutions submitted to it by the Committee on Crime Prevention and Control. 25/

95. Likewise, computer-assisted prisoner training and education become potentially valuable, especially on account of their capacity to provide individualized learning environments. Even in medium-sized prisons, it often happens that only one or two prisoners are interested in pursuing a particular course of study at a particular time. In such a situation, a class and instructor would not be justified, but a computer-based course, perhaps supplemented by correspondence lessons, could meet the need more than adequately.

V. PRIORITIES FOR FURTHER INTERNATIONAL CO-OPERATION

A. Descriptive research and trend analysis

96. The prison system is particularly amenable to statistical collection and analysis. The most pressing research need at the international level is for a marked increase in the flow of descriptive, especially statistical, information on correctional trends; the analysis of needs, and possible policy responses.

97. Efforts of this kind have already brought some tangible results: most European countries reported such data in the framework of the United Nations survey of crime trends, operations of criminal justice systems and crime prevention strategies, as did - to a lesser extent - several from other regions of the world (A/CONF.121/18 and Corr.1). Quite apart from international comparisons and trends that are of general interest, the analysis of trends within countries is probably the most powerful tool for planning. Depending on the degree of detail of the basic data collection, it is possible to make some informed estimate of when and where new correctional facilities will be needed. Consequently, these statistics need to be improved nationally and internationally.

B. Evaluation research

98. As the level of research competence increases with the initial development of simple data collections, moving on to more complex collections and analyses, attention will almost certainly focus on the evaluation of correctional

services and programmes. As in the assessment of the effectiveness of non-custodial sanctions (A/CONF.144/13), evaluation research in corrections attempts to review systematically the extent to which a specific programme or activity succeeds in achieving its goals. Depending on the stated aims, the assessment can be based either on relatively objective measures, such as recidivism and costs, or on more subjective measures, such as prisoner or staff morale.

99. Evaluation research, if used at all, is generally directed at new programmes, such as a work-release scheme or an alternative treatment option. The techniques may take many different forms, and may ultimately be applied to the entire system. Without the information generated by this type of research, a correctional administrator has no solid basis upon which to improve cost-effectiveness.

C. International transfers

100. The subject of international transfer has been mentioned earlier (paras. 74-77 above) in relation to foreign citizens in prison. It is mentioned here again as a priority area for international co-operation. One of the political reasons why some nations are reluctant to support the concept is that a very large proportion, probably the majority, of foreign prisoners have been convicted of offences related to illegal drugs, and they are disinclined to take any action that could be interpreted as showing sympathy to drug offenders. In this vein it is further argued that the deterrent effect of imprisonment will be greater if drug traffickers convicted in foreign countries are required to serve their sentences under conditions that are unfamiliar and therefore more stressful. Finally, particularly in very small nations, the local community may favour the policy that foreigners who break the law must be seen to serve their sentences where the offence occurred, as otherwise people might believe that the offender will be set free upon leaving the country.

101. These are powerful arguments that cannot be lightly set aside, but there is room for negotiation in relation to foreign prisoners with special problems, such as the sick or the elderly, or those who have served a substantial proportion of very long sentences. The fact that a relatively large number of foreign prisoners are female is also relevant. In support of international transfers it has been suggested that prisoner transfer treaties help to reduce overcrowding and to ease prison tension and inmate resettlement problems.

D. Mutual assistance

102. The Seventh Congress, in 1985, launched a significant number of international instruments and model agreements. These focus on different aspects, including investigation, sentencing and punishment of offenders, and are therefore relevant to topic II of the present Congress. Bilateral and multilateral treaties between many nations have been signed since 1985, but the process is by no means complete and further negotiations will no doubt continue.

103. Possibly the most significant part of these mutual assistance agreements relates to the extradition of persons in custody to face charges in another nation. Under recent extradition treaties, an offender serving a long prison sentence may be transferred to another country to face trial and possible sentence there, and then later be returned to the first country to complete the original sentence. Such complicated and expensive arrangements would

only be made if the new charges were very serious, but these treaties have closed a gap which in the past has allowed some serious international criminals to avoid prosecution with the passage of time.

104. Similar international agreements have provided for witnesses who are themselves in custody in one country to be temporarily transferred to another in order to give evidence and to face cross-examination in a trial in the second country. A person in this situation would be returned to the first country to complete his or her sentence after the evidence had been concluded.

105. Mutual assistance agreements may also focus on financial issues. For example, the requirement for international cash transactions over a specified amount to be reported to a central authority is seen as a powerful weapon for use against major drug syndicates, and provisions to freeze bank accounts and confiscate the proceeds of crime are generally seen as very useful. The confiscation of criminal proceeds may well be one of the most effective alternatives to imprisonment that could be imposed on certain categories of offenders, even though this penalty may in some circumstances be imposed in addition to a sentence of imprisonment, rather than as an alternative.

VI. CONCLUSIONS

106. This paper has reviewed current trends and issues in the management of prisons, including the uses of alternatives to imprisonment as a sentencing option. The Congress is invited to give guidance to both Member States and the Secretary-General on the policies with respect to those issues which it considers most pressing or most amenable to improvement.

107. In addition to action on the draft Tokyo Rules, 23/ the Congress may wish to consider the following issues:

(a) Responses to prison overcrowding and especially the link with sentencing practices;

(b) Management of prisons housing HIV/AIDS infected prisoners, and the treatment of those prisoners individually;

(c) The management of prisoners being held for terrorist offences and of prisoners prone to violence;

(d) The provision of suitable treatment for prisoners who use illicit drugs, and the management of prisons where drug use is believed to occur;

(e) The need for special protection of human rights for different categories of particularly vulnerable prisoners.

The conclusions of the two Congress research workshops on further use of non-custodial sanctions, including possible follow-up on the implementation of the Tokyo Rules, and on the use of computer technology in criminal justice systems, particularly prisons, will all be relevant to these questions.

Notes

1/ See Official Records of the Economic and Social Council, 1986, Supplement No. 5 (E/1986/25), chap. I, sect. B, draft decision.

2/ Reports of the African Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/RPM.5 and Corr.1), para. 44, and of the Latin American and Caribbean Regional Preparatory Meeting (A/CONF.144/RPM.3 and Corr.1, paras. 38 and 42).

3/ Reports of Western Asia Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/RPM.4 and Corr.1), para. 50, and of the Latin American Regional Preparatory Meeting (A/CONF.144/RPM.4 and Corr.1), para. 44.

4/ Norman Bishop, Non-Custodial Alternatives in Europe, Helsinki Institute for Crime Prevention and Control affiliated with the United Nations, Publication No. 14 (1988), p. 55; David Biles, "Crime and imprisonment: a two-decade comparison between England and Wales and Australia", British Journal of Criminology, vol. 23, No. 2 (1983), pp. 166-172; and John Walter, Patrick Collier and Roger Tarling: "Why are prison rates in England and Wales higher than in Australia?" British Journal of Criminology, vol. 30, No. 1 (1990), pp. 24-35.

5/ C. van der Werft, Recidivism and Special Deterrence (The Hague, Ministry of Justice of the Netherlands, 1978); Peter H. Burgoyone, Recidivism among Robbers: A Study of Men Released from Custody after Having Served Sentences of Robbery or Attempted Robbery (Criminology Research Council and Victoria Department of Community Welfare Services, 1970).

6/ Bishop, op. cit.; and Thomas Mathiasen, Prison on Trial (London, Sage Publications, 1990), pp. 135-168.

7/ First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4), annex I, sect. A.

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13/ Official records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. I, sect. c, decision 11/115.

14/ David P. Farrington and Christopher P. Nuttall, "Prison size, overcrowding, prison violence and recidivism", Journal of Criminal Justice, vol. 8 (1980), pp. 221-231, and T. Thornberry and J. E. Call, "Constitutional challenges to prison overcrowding: the scientific evidence of harmful effects", Hastings Law Journal, vol. 35, No. 2 (1983), pp. 313-351.

15/ K. Pease, "Community service orders", Crime and Justice, vol. 5 (Chicago, University of Chicago Press, 1985); A. E. Bottoms, "Limiting prison use: experience in England and Wales, Howard Journal, No. 26, 1987, pp. 177-202; and Antony A. Vass, Alternative to Prison: Punishment, Custody and Community (London, Sage Publications, 1990).

16/ James Austin, "Using early release to relieve prison crowding: a dilemma in public policy". Crime and Delinquency, vol. 32, No. 4 (October 1986), pp. 404-502.

17/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D, resolution 2, annex.

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19/ Seventh United Nations Congress ..., chap. I, sect. D, resolution 1.

20/ Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. I, sect. C, decision 11/121, annex.

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23/ Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. IV, para. 69, sects. A-G.

24/ Ibid., chap. I, sect. C, decision 11/108, annex.

25/ Ibid., decisions 11/103 and 11/105.

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IMPLEMENTATION OF THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

Report of the Secretary-General

Summary

This report has been prepared in response to Economic and Social Council resolution 663 C I (XXIV). It contains updated information on the implementation of the Rules since the completion of the last quinquennial survey (A/CONF.121/15) in 1985. Its purpose is to provide an overview of the extent of the implementation of the Rules, as reported by each country; to provide a better understanding of the current difficulties in, and constraints on, implementing the Rules; to suggest viable remedies; and to enable the United Nations to assist Member States, at their request, in improving conditions in their prisons through, inter alia, the services of the interregional and regional advisers and the involvement of the regional and interregional institutes of the United Nations for the prevention of crime and the treatment of offenders. While maintaining basic consistency and comparability with previous surveys, the present one takes into account, for the first time, the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners, as well as resolutions 10 and 17 adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Accordingly, special emphasis has been placed, inter alia, on the status of prisoners, prison work, and education and vocational training. As proposed by the Interregional Preparatory Meeting for the Eighth Congress on topic II (A/CONF.144/IPM.4), particular attention has also been given to practical strategies aimed at improving prison conditions and reducing overcrowding. As in the past, the results of the survey will provide a yardstick by which to assess the progress and needs of Member States and will direct the course of future action.

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INTRODUCTION

1. Surveys on the implementation of the Rules were conducted, and reports prepared, for the consideration of the last four United Nations congresses on the prevention of crime and the treatment of offenders (in 1970, 1975, 1980 and 1985). For the survey conducted in 1990, the Secretary-General, by his note verbale of 23 June 1989, invited Governments and other parties concerned to provide information on a number of special issues in addition to data on the application, dissemination and implementation of the Rules.* The present report, after reviewing general principles, covers a wide range of topics based upon the replies to the note verbale of Governments, the regional and inter-regional institutes of the United Nations for the prevention of crime and the treatment of offenders, as well as of intergovernmental and non-governmental organizations.

I. REVIEW OF GENERAL PRINCIPLES

2. In many countries, the prison population continues to increase. Among those that contributed information to the two most recent United Nations surveys of crime trends, operations of criminal justice systems and crime prevention strategies (A/CONF.121/18 and A/CONF.144/6), a comparison between the years 1975 and 1980 (based on the replies of 22 countries) showed that, in 14 countries, the rate of prison population per 100,000 inhabitants had increased, while in only 8 had it decreased. In the comparison between the years 1980 and 1985 (based on the replies of 26 countries), in 17 countries the rate had increased, while in 9 it had decreased.

3. Imprisonment is the most severe punishment normally provided in national legislation for various types of crime. Whether or not the ultimate sanction of capital punishment is also available, imprisonment involves an act of coercion by the State against a citizen that can only be justified if it is accompanied by proper procedures and safeguards. International standards are set out in the Standard Minimum Rules for the Treatment of Prisoners, the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolution 1984/47, annex), and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173) as well as the Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners, adopted by the Seventh Congress. 1/ Further provisions are also contained in the Universal Declaration of Human Rights (General Assembly resolution 217 A (III)) and the International Covenant on Civil and Political Rights and its Optional Protocol (General Assembly resolution 2200 A (XXI)). They are further elaborated in the draft basic

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*As at 1 June 1990, 49 countries had replied to the note verbale of the Secretary-General: Argentina, Australia, Austria, Bahamas, Bolivia, Botswana, Byelorussian Soviet Socialist Republic, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czech and Slovak Federal Republic, Denmark, Ecuador, Egypt, Finland, France, German Democratic Republic, Germany, Federal Republic of, Greece, Guatemala, Indonesia, Italy, Japan, Jordan, Malawi, Mauritius, Mexico, Netherlands, Norway, Philippines, Poland, Portugal, Qatar, Singapore, South Africa, Spain, Sri Lanka, Switzerland, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Uruguay and Yugoslavia.

principles for the treatment of prisoners, which are before the Eighth Congress for its consideration.*

4. The need for such procedures and safeguards is generally recognized when detention takes place before or during trial; but it is equally important, although less generally recognized, after the sentencing during the period of imprisonment itself. Such procedures and safeguards are important for the following reasons:

(a) Imprisonment gives the State an exceptional degree of authority and control over those who are imprisoned, for whom safeguards are needed to prevent abuse;

(b) Imprisonment creates a potentially volatile environment, which requires a special and highly developed professionalism on the part of prison staff;

(c) Frequently, prisoners attract little sympathy from members of the public, or from those who are normally ready to act on the public's behalf in order to prevent abuse or obtain redress: special attention is therefore needed to ensure that the human rights of prisoners, as set out in international instruments, are properly protected;

(d) Abuse can more easily pass undetected because most prisons are closed institutions, often situated in remote areas where access is difficult. The families and friends of prisoners may themselves be vulnerable or inarticulate, and therefore reluctant or unable to make themselves heard.

5. The Rules and other internationally accepted instruments set out standards designed to protect the human rights of prisoners. They are not, however, complete, in the sense that they do not provide a total guarantee against abuse, and they are not yet fully in operation on a uniform basis throughout the world. They need to be supported in each country by a clearly defined and publicly recognized understanding that would cover:

(a) The goals of imprisonment;

(b) The types of offender for whom imprisonment is needed, and those for whom community-based penalties would be sufficient and practicable;

(c) The kind of treatment that imprisonment is intended to encompass;

(d) The basis on which authority is exercised within prisons.

6. Such an understanding is needed not only to prevent the abuse or arbitrary use of authority, but also to provide a framework for the development of policy and practice, and to give the staff a sense of professional identity and purpose.

7. The application of the Rules may vary between countries and cultures and also change over time. Countries may have different views about the extent to which experience in prison can be expected to affect the prisoner's future behaviour; the types of offender who should or should not be subject to

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*See Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31) chap. I, sect. C, decision 11/115.

imprisonment; the extent to which prison administration should be subject to judicial oversight; the value and purpose of prison work or education; the nature and the content of disciplinary action; or the recruitment, status, conditions and training of staff. There is unlikely to be world-wide agreement on such matters: any attempt to achieve it would probably result in a general statement that countries could interpret in different ways. The Rules themselves, under "Preliminary Observations", recognize that they cover a field in which thought is constantly developing; they are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole. It is important that in each country, the issues should be publicly determined, clearly stated, subject to inspection or judicial review and open to public debate.

8. The absence of such an understanding and such a public debate may lead to a rigidity in the administration of prisons and a reluctance to adapt to changing circumstances, which are factors that contribute to overcrowding, prison riots, drug-taking and the spread of the acquired immunodeficiency syndrome (AIDS), as well as recidivism. Coupled with such an understanding and debate, the Rules remain a fundamentally important statement of human principles, which should be common to all countries and cultures and applied as far as possible in all situations.* In particular, they are an expression of the need for all prison administrations, however different their objectives may be, to implement the sanction of imprisonment in ways which:

(a) Respect and, where possible, restore the personal dignity of those committed to their charge;

(b) Provide the basic conditions of civilized life and consideration for others;

(c) Recognize that prisons, like other institutions, are part of society and should function and treat prisoners accordingly;

(d) Ensure that standards of hygiene, privacy and care do not fall significantly below those that are considered acceptable for the population as a whole;

(e) Offer prisoners some sense of personal responsibility and control over their lives and livelihood.

9. Physical conditions; the range and content of activities available; the conduct of staff; the channels for communication and, if necessary, complaint; and the sanctions against misconduct, whether by prisoners or by staff, should

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*In connection with the question of whether the Rules may have become legally binding, see the working paper prepared by the Secretariat on United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard-setting (A/CONF.144/18, sect. II, subsect. B). See, also, Concluding Document of the Vienna Meeting 1986 of Representatives of the Participating States of the Conference on Security and Co-operation in Europe held on the Basis of the Provisions of the Final Act relating to the Follow-up to the Conference, in which the participating States agreed, inter alia, to observe the Standard Minimum Rules for the Treatment of Prisoners.

all be based on mutual respect between those who manage prisons, those who work in them and those who are committed to their charge.

II. SURVEY OF SPECIAL ISSUES

10. In order to obtain fuller information about various aspects covered by the Rules, questions were asked not only about the application, dissemination and implementation of the Rules, but also about a number of special issues, including the status and human rights of prisoners, reduction of prison populations, foreign prisoners, medical services, discipline and punishments, prison work, education and vocational training, treatment programmes, contacts with the outside world and institutional personnel. These special issues are considered in paragraphs 11-45 below and the application, dissemination and implementation of the Rules in paragraphs 46-55. Although there has been insufficient time for a full analysis of all the material received, the valuable contributions of the 49 countries and the non-governmental and other organizations that replied to the questionnaire has enabled the present report to cover a wide range of topics.

A. Status and human rights of prisoners

11. Almost all the countries indicated that access to the judiciary and to lawyers was available to prisoners but only about half the countries reported that decisions of prison administrators concerning the status and rights of prisoners were subject to judicial review. Several other countries, however, mentioned that judicial review was available in respect of a few types of administrative decision.

12. Most countries reported that communication between the prison administration and the prison population was maintained by means of personal contacts and more than half of these noted that letters were an alternative means. Two countries mentioned that a commission of inmates or representatives of prisoners fulfilled this role and another country referred to an information booklet that was provided for prisoners.

13. A wide range of grievance procedures was described, including oral or written complaints to the prison administration or the overall prison authorities. Many countries mentioned the possibility of appealing to the minister of justice or head of State.

14. The entitlement of prisoners to financial or legal assistance in making their complaints varies considerably. Over half the countries reported that one (or both) type(s) of assistance was (were) available; legal assistance was more prevalent, however.

15. Over three quarters of the countries indicated that prisoners had access to an ombudsman, or a similar system, or that they were able to appeal to the courts for redress. Only three countries reported that no such provision existed; the remainder mentioned safeguards, such as the right to petition for clemency, and the fact that prison activities were monitored by the public prosecutor. Over half of the countries reported additional mechanisms for protecting the human rights of prisoners.

16. Three quarters of the countries reported that specific operational standards existed to safeguard the human rights of prisoners. Several countries pointed out that such standards existed only to a limited degree and four said that no such standards had been established.

B. Reduction of the prison population*

17. Almost half the countries indicated a serious shortage of space for detainees and several mentioned some shortages. Almost one third reported a serious shortage of space for convicted prisoners and almost one fifth also reported a shortage of other physical facilities (medical services, recreational facilities, workshop space etc.).

18. Many countries reported that various policies and strategies had been adopted to reduce the prison population. Over 60 per cent had introduced changes in penal legislation and sentencing policies. More than half were attempting to reduce the number of persons under detention pending trial, particularly through bail or release on recognizance.

C. Transfer of foreign prisoners

19. The majority of the countries said that action was being taken to allow for 'gn prisoners to serve their sentence in their countries of origin. Actions included ratifying and implementing conventions such as the Convention on the Transfer of Sentenced Persons of the Council of Europe (1983) and the Berlin multilateral convention on the transfer of convicted persons (1979). Many had also negotiated bilateral agreements. Seventeen countries mentioned that they were using the Model Agreement on the Transfer of Foreign Prisoners 1/ for bilateral negotiations. A number of countries incorporated provisions for transfer within national legislation.

20. Several countries mentioned that, in accordance with rule 38 of the Standard Minimum Rules, and the recommendations on the treatment of foreign prisoners, 1/ foreign prisoners were allowed to communicate as necessary with the diplomatic and consular representatives of their own State or the State taking charge of their interests. Other procedures included visits to foreign nationals serving a sentence in a separate ward from the main prison population and distributing prison brochures in appropriate languages. There was also evidence of the application of non-custodial sanctions to foreign prisoners, where possible.

D. Medical services

21. The majority of the countries indicated that a broad range of medical services, hospital facilities and specialist treatment was available for the care of prisoners, although provision varied and large establishments were better equipped than smaller prisons. A quarter of the countries pointed out that every institution operated a medical unit of some kind. There was also evidence of national legislation making provision for specialist psychiatric care. Only one quarter of the countries, however, stated that the health care provided for prisoners was equivalent to that existing for the rest of the population.

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*See also "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures: Alternatives to imprisonment and reduction of the prison population - report of the Secretary-General" (A/CONF.144/12) and "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures: research on alternatives to imprisonment - report of the Secretary-General" (A/CONF.144/13).

22. In cases where prisoners required medical attention, most countries provided treatment within the institution if possible. Otherwise, prisoners were transferred to prison hospitals or to civilian hospitals capable of providing specialist or intensive care. A number of countries stated that the medical needs of prisoners were the only factors influencing the kind of care provided. Only one country said that prisoners, as a matter of policy, received all medical care within the community to aid the rehabilitative process.

23. A number of impediments to providing optimum health care for prisoners were acknowledged, including professional, material and financial shortages. For example, although all the prisons in one country were serviced by one or two doctors, they did not have adequate access to medical equipment or pharmaceutical products.

24. All the countries emphasized the inadmissibility of scientific or medical experiments, undertaken without the consent of prisoners, which might result in physical or mental injury. In fact, such experiments were generally inadmissible even with the consent of inmates, although one country replied that operational medical research would be permitted in certain circumstances with the patient's consent and the joint agreement of the Medical Research Council and the Commissioner of Prisons. Another country, while excluding the possibility of scientific or medical experimentation, explained that consenting prisoners might participate in those sociological studies that had prior authorization from the prison authorities.

E. Discipline and punishment

25. Most countries indicated that the obligations of prisoners were set out in rules and regulations covering, for example, the maintenance of order, the abuse of substances, and escape or behaviour constituting a criminal offence. A range of punishments were described, including removal to solitary confinement or a punishment cell; extension of sentence; restrictions on leave; the loss of rights and privileges, such as receiving letters, telephone calls and visits; fines or the loss of remuneration; reprimand; additional cleaning duties; transfer to a special prison colony or to less favourable prison conditions. Prosecution was possible in the case of criminal behaviour. Only one country admitted using corporal punishment. Another replied that untried prisoners were not subject to punishment.

26. The authority to impose punishment varied among the countries. In most cases, the prison governor was invested with such authority, although some countries stated that it was exercised by more junior prison personnel. In some countries, cases involving serious infractions were referred to higher authorities such as the central prison administration. Other bodies that were cited included the police, the judiciary, boards of directors, prison rule committees and disciplinary councils. Most countries specified that an investigation of each case took place and some mentioned the right of prisoners to present evidence, to attend a hearing and to be informed of charges brought against them. Only one reply stated that the prison governor had the authority to impose a penalty without prior investigation.

27. Over half the countries stated that decisions in disciplinary proceedings were subject to review by a higher authority, which in many instances was a senior official of the prison service. Six countries stated that the decision of the initial adjudication was final.

28. Guidance on what constituted cruel, inhuman or degrading treatment or punishment existed in most of the countries. Such guidance was provided by

national legislation, prison regulations, court procedures and rulings, and, indirectly, by codes of conduct for prison officers. The guidance ranged from commentaries on United Nations and European conventions, recommendations on restraining the use of force and, within the constitution of one country, a prohibition on punishment involving mutilation, public degradation, corporal punishment and torture, or those punishments that had a detrimental effect on other persons.

F. Prison work

29. Twenty-two countries reported that sufficient work was available for all convicted prisoners. A further 18 stated that insufficient work was available, and one country explicitly indicated that there was no provision of work.

30. Work for prisoners included farming and animal husbandry; production and assembly work; building, construction and maintenance; general handicrafts; woodwork; textiles, tailoring and dressmaking; metalwork; kitchen work; printing and bookbinding; shoemaking and leatherwork; laundry; electrical and mechanical work; administrative and clerical tasks; horticulture; carpet making; graphics; forestry; fishing and mining. Two countries reported that between 60 and 80 per cent of the prison population was employed by outside employers, but in general such involvement was not substantial.

31. A number of factors influenced the ability of the countries to provide useful work for prisoners. Security requirements were of concern to 26 of the countries. Competition with the outside market was also a problem as were, to a lesser degree, complaints by unions and self-management groups; a shortage of work, tools and facilities; budgetary constraints; general economic conditions; and staff shortages. In 27 countries, the participation of prisoners in vocational training courses was as follows: in 14 countries up to 20 per cent of the prison population participated; in 7 countries between 21 and 40 per cent participated; in 1 country, 41 to 60 per cent participated; in 2 countries between 61 and 80 per cent participated; and in 3 countries between 81 and 100 per cent participated.

32. The earnings of untried prisoners ranged from 0.2 per cent to 100 per cent of the national average wage. In two countries, the weekly earnings were the same as the national average, while in the other six that provided such information they ranged from 0.2 to 12 per cent. The earnings of convicted prisoners in the 25 countries that provided such information ranged from 0.2 to 100 per cent. Five countries stated that convicted prisoners were paid the full average weekly wage; 15 of the other countries paid wages no higher than 30 per cent of the national average.

G. Education and vocational training

33. The facilities provided by countries for the education of prisoners varied considerably. In a few instances, no provision had been made. Many replies revealed differences between the provisions for convicted and for unconvicted prisoners. Nine countries stated that no educational facilities were available for the latter.

34. The education provided varied from basic literacy and numeracy to secondary and tertiary opportunities. Education was generally organized by the prison authorities or, less frequently, by the national education departments. Some countries permitted prisoners to study by correspondence course or, rarely, to attend specific courses outside the institution. Many

countries included vocational training as part of a general education for prisoners and a few organized specific educational programmes for juvenile offenders.

35. In most countries, prisoners were informed of educational possibilities on admission. Many countries also undertook formal assessments of the educational status of prisoners as a basis for individual study programmes. A few countries viewed education as a voluntary commitment and, therefore, did not make standard assessments. In one country, prisoners undertook self-assessments as this was believed to increase motivation.

36. Many countries viewed education as recreation and did not pay prisoners for the time spent in studying. The majority of the countries stated that any certificates, diplomas and other indications of educational attainment gained by prisoners were of an equivalent standing to those awarded externally.

37. Very few countries were able to assist prisoners in continuing their studies once they had been released. Where this facility existed, it was either part of after-care or co-ordinated by voluntary organizations.

H. Treatment programmes

38. The information provided on treatment programmes was as follows:

(a) Educational and vocational training: many countries stated that equipping prisoners with educational and vocational skills was a positive aid to their reintegration. Only one country stated that treatment programmes of this kind did not reduce recidivism;

(b) Assessment and counselling: individual attention to the needs of prisoners, including individual action plans, counselling, assessment and pre-release courses was considered beneficial by a number of countries;

(c) Substance abuse control programmes: several countries administered programmes for prisoners who abused drugs or alcohol or who were at risk of abuse. One country made provision for those convicted of offences involving drinking and driving. Physical exercise featured prominently in several of the programmes;

(d) Temporary release from prison: a variety of different schemes were operated, including parole, home leave, work release and, in one case, education projects on board ship;

(e) Psychiatric support and assessment: this was felt to be valuable in targeting care for vulnerable prisoners;

(f) More collaborative and less severe prison régimes: several countries reported that operating more relaxed and flexible prison régimes proved beneficial to prisoners;

(g) Links with families: encouraging links between prisoners and families was emphasized by a number of countries. One country operated an open-prison régime for women prisoners and their children.

39. The other programmes mentioned included religious and moral instruction, physical exercise, treatment programmes for sex offenders and special projects for young offenders. Most countries used some form of evaluating programmes.

I. Contacts with the outside world

40. It was noted that the access of prisoners to the telephone was influenced by a number of factors. Some countries permitted unsentenced prisoners greater access to the telephone, while in other countries, its use was restricted to convicted prisoners. Other factors mentioned included: greater access for first-time offenders; access only for juveniles or women prisoners; the presence of a police officer; and restrictions imposed on prisoners convicted of drug offences. The scarcity of telephones nationally was often cited as an impediment. Several countries indicated that telephone calls were monitored. The extent of access varied from no telephone calls allowed under any circumstances, messages relayed via staff or social workers, calls permitted in the case of emergencies or on compassionate grounds with the prior authorization of the prison director, calls permitted to lawyers, a specified number and duration of calls permitted to no restrictions other than those relating to general security and control. Several countries mentioned that untried prisoners came under the jurisdiction of the examining judge who was responsible for specifying what contact was permitted. One country offered access to the telephone as a reward for good behaviour.

41. Most countries stated that few or no limitations were placed on written communications between prisoners and their families and friends. Some countries however, differentiated between categories of prisoner and the length of sentence and some took the location of the prison into account. One country only permitted correspondence with friends when it was deemed useful to rehabilitation; this restriction was not applied to unsentenced prisoners. In the majority of cases, prisoners were allowed unlimited correspondence with legal representatives and probation officers. One country did not permit correspondence with journalists.

42. Restrictions on visits to prisoners varied greatly. Three countries reported that no restrictions were made on the frequency or duration of visits by families and friends. The majority of the countries indicated that between 1 and 12 visits of varying duration were permitted per month. A minority of the countries permitted either extended or conjugal visits. Factors influencing visits included the number of visitors allowed at any one time, the nature of the visit, institutional priorities and the category of the prisoner.

43. Several countries permitted juveniles to receive more frequent visits. One country stated that women prisoners could receive an additional visit from their children each month although another country did not permit visits from persons under 14 years of age. In general, no other restrictions were placed on who might visit except in relation to those who might affect the security of the institution; some countries did not permit visits from ex-prisoners.

44. Most countries used some form of prison leave, including compassionate leave, day parole, escorted leave, weekend furlough and special annual leave entitlements.

J. Institutional personnel

45. Many countries emphasized the important role of prison personnel in ensuring that the Rules were effectively implemented. The majority of the countries specified that institutional personnel should satisfy certain basic criteria regarding: health and fitness, psychological stability, the attainment of a certain educational standard, knowledge of a particular skill or trade and the absence of a criminal record. Candidates might also be required

to be above a certain age and to be a national of the country concerned, or to have been a member of the police or army. Suitability was assessed by performance in an entrance examination, but this was not common. Training for prison staff varied considerably in length and usually combined both practical and theoretical elements. Few of the countries conducted refresher courses for staff, although one country organized such training on a continuing basis and its content was determined by regular staff appraisal systems.

III. APPLICATION, DISSEMINATION AND IMPLEMENTATION OF THE RULES

46. Governments were asked to provide a description of the extent to which the Standard Minimum Rules were being implemented in their countries. While in the surveys requesting information for consideration by the congresses held in 1975, 1980 and 1985 questions were asked about sections of the Rules according to the headings of the Rules, in the present survey, for the first time, questions were asked about each Rule separately. Forty countries have taken part in at least three of the last four surveys, and the countries participating for the first time in the present survey - Ecuador, Jordan, Malawi, South Africa and Uganda - bring to 100 the number of countries that have taken part in at least one such survey.

A. Application

47. Governments were asked if the substance of the Rules was covered by existing legislation and in particular if any of the Rules had been embodied in national legislation and other regulations. Almost all the countries that answered this question indicated either that the substance of the Rules was covered by existing legislation or that the Rules had been embodied in their prison laws, regulations or rules. Only two countries reported that the substance of most, but not all, of the Rules was covered by existing legislation. One country said that the substance of the Rules was only partially covered and one said that the substance of the Rules was not covered.

B. Dissemination

48. Almost all the countries reported that the Rules had been translated and published in the official language(s) of their country as a separate document. Two countries that had more than one official language indicated that the Rules had not been translated into every official language. Three countries reported that, while they had not yet published a translation of the Rules, translations were being prepared or had already been completed with a view to publication. Only two countries indicated that no translation was being prepared but one of them said that they intended to translate and publish the Rules. One country did not know if the Rules had been published in its language.

49. Almost all the countries reported that the Rules were available to law enforcement officials and correctional personnel, for the purpose of enabling them to be applied to the criminal justice system. Six countries indicated that the Rules were not made available in this way, but two of them pointed out that regulations based on the Rules were available instead.

50. Most countries reported that the Rules were used in the training of staff. Four countries however, gave qualified answers indicating, for example, that regulations based on the Rules were used for training purposes, or that there was only limited use of the Rules for training purposes. Four countries reported that the Rules were not used for training purposes.

51. Governments were also asked if the Rules, as embodied in national legislation and other regulations, were made available and explained to all prisoners and all persons under detention on their admission and during their confinement. About 60 per cent of the countries that answered this question indicated that the Rules were made available at some time during the period of confinement, at least in the form of the legal codes in which they were embodied. Many of these countries mentioned that the Rules were available in the prison library. A further 30 per cent of the countries that answered this question indicated that the Rules were routinely explained or explained on request or that at least some explanatory work was undertaken. Only four countries reported that the Rules were neither available nor explained but one of them indicated that provision for such dissemination was being made in revised regulations.

52. Finally, Governments were asked if prisoners and persons under detention received copies of the Rules in their own language or a language that they understood. Less than a quarter of the 39 countries that answered this question indicated that such persons received the Rules in such a form automatically.

C. Implementation

1. Tabular summary

53. Despite the acceptance of the basic principles of the Rules throughout the world, many countries reported that there were still obstacles to their full implementation. The table below shows the extent of the implementation of the Rules as reported by the Governments of the 49 participating States.

2. Commentary and reasons for discrepancies

54. Governments were invited to indicate not only the extent of the implementation of the Rules, but also the reason for any discrepancies between the Rules and the law or practice in their countries. Their answers are summarized in the paragraphs below.

Rules of general application

Rule 6 (Basic principle)

55. Rule 6 (1) requires that all the Rules shall be applied impartially and that there shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Rule 6 (2) requires respect for the religious beliefs and moral precepts of prisoners. All the countries reported their adherence to Rule 6; four countries were unable to implement it fully, however, mainly for budgetary, economic or geographical reasons.

Rule 7 (Register)

56. Rule 7 (1) requires that a register be kept in each prison giving details of each prisoner's identity, the reasons and authority for his or her commitment, and the day and hour of admission and release. Rule 7 (2) requires that no prisoner be received in an institution without a valid commitment order whose details have been entered in the register. All the countries reported adherence to this Rule; two countries were unable to implement it fully, however, mainly for economic reasons and a lack of infrastructure.

Survey of the replies from Member States on the implementation of the Standard Minimum Rules for the Treatment of Prisoners

Rule number	Subject	Number and type of reply						
		Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	Total g/
		Rules of general application						
6	Basic principle	40	3	1	-	-	2	46
7	Register	41	2	-	-	-	3	46
8	Separation of categories	25	16	1	2	-	2	46
9	Accommodation	22	12	6	3	-	3	46
10	Accommodation	32	7	4	1	-	2	46
11	Accommodation	35	6	2	1	-	2	46
12	Accommodation	36	6	1	1	-	2	46
13	Accommodation	34	6	2	2	-	2	46
14	Accommodation	37	5	1	1	-	2	46
15	Personal hygiene	37	5	2	-	-	2	46
16	Personal hygiene	38	4	1	1	-	2	46
17	Clothing and bedding	37	5	-	2	-	2	46
18	Clothing and bedding	38	4	1	1	-	2	46
19	Clothing and bedding	37	3	3	1	-	2	46
20	Food	36	8	-	-	-	2	46
21	Exercise and sport	31	13	-	-	-	2	46
22	Medical services	30	11	1	1	-	3	46
23	Medical services	29	11	2	1	-	3	46
24	Medical services	36	5	-	2	-	3	46
25	Medical services	33	8	-	2	-	3	46
26	Medical services	32	7	1	2	1	3	46
27	Discipline and punishment	41	3	-	-	-	2	46
28	Discipline and punishment	37	5	-	2	-	2	46
29	Discipline and punishment	39	3	-	2	-	2	46
30	Discipline and punishment	40	2	-	2	-	2	46
31	Discipline and punishment	34	7	-	3	-	2	46
32	Discipline and punishment	34	10	-	-	-	2	46
33	Instruments of restraint	40	4	-	-	-	2	46
34	Instruments of restraint	42	1	-	2	-	1	46
35	Information to and complaints by prisoners	34	9	1	-	-	2	46

continued

Survey (continued)

Rule number	Subject	Number and type of reply: Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	Total g/
36	Information to and complaints by prisoners	42	2	-	1	-	1	46
37	Contact with the outside world	44	1	-	-	-	1	46
38	Contact with the outside world	43	1	-	-	1	1	46
39	Contact with the outside world	42	3	-	-	-	1	46
40	Books	33	10	-	-	1	2	46
41	Religion	36	4	4	-	-	2	46
42	Religion	39	4	1	-	-	2	46
43	Retention of prisoners' property	42	1	-	1	-	2	46
44	Notification of death etc.	39	4	1	-	-	2	46
45	Removal of prisoners	42	2	-	-	-	2	46
46	Institutional personnel	33	9	-	1	-	3	46
47	Institutional personnel	31	11	-	2	-	2	46
48	Institutional personnel	36	7	-	1	-	2	46
49	Institutional personnel	31	11	2	-	-	2	46
50	Institutional personnel	34	8	1	1	-	2	46
51	Institutional personnel	41	3	-	-	-	2	46
52	Institutional personnel	27	14	2	-	1	2	46
53	Institutional personnel	34	5	1	1	3	2	46
54	Institutional personnel	40	4	-	-	-	2	46
55	Inspection	38	3	1	2	-	2	46
	(a) Prisoners under sentence							
56	Guiding principles	42	1	1	-	-	2	46
57	Guiding principles	40	3	1	-	-	2	46
58	Guiding principles	39	4	1	-	-	2	46
59	Guiding principles	39	4	1	-	-	2	46
60	Guiding principles	38	5	1	-	-	2	46
61	Guiding principles	40	4	-	-	-	2	46

continued

Survey (continued)

Rule number	Subject	Number and type of reply						
		Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	Total g/
62	Guiding principles	37	5	-	1	-	3	46
63	Guiding principles	29	12	2	1	-	2	46
64	Guiding principles	35	3	4	2	-	2	46
65	Treatment	39	4	-	-	-	3	46
66	Treatment	33	9	1	-	-	3	46
67	Classification and individualization	35	5	1	2	-	3	46
68	Classification and individualization	32	9	-	2	-	3	46
69	Classification and individualization	31	11	1	-	-	3	46
70	Privileges	37	4	-	3	-	2	46
71	Work	29	14	-	1	-	2	46
72	Work	37	6	-	1	-	2	46
73	Work	34	7	2	1	-	2	46
74	Work	34	5	3	2	-	2	46
75	Work	37	3	1	3	-	2	46
76	Work	30	12	1	1	-	2	46
77	Education and recreation	36	8	-	-	-	2	46
78	Education and recreation	39	5	-	-	-	-	46
79	Social relations and after-care	42	4	-	-	-	-	46
80	Social relations and after-care	41	4	1	-	-	-	46
81	Social relations and after-care	34	7	-	3	2	-	46
	(b) Insane and mentally abnormal prisoners							
82	Insane and mentally abnormal prisoners	35	7	2	1	1	-	46
83	Insane and mentally abnormal prisoners	31	4	5	1	1	4	46

continued

Survey (continued)

Rule number	Subject	Number and type of reply: Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	Total g/
	(c) Prisoners under arrest or awaiting trial							
84	Prisoners under arrest or awaiting trial	37	4	1	1	1	2	46
85	Prisoners under arrest or awaiting trial	25	12	2	4	1	2	46
86	Prisoners under arrest or awaiting trial	11	13	12	6	1	3	46
87	Prisoners under arrest or awaiting trial	33	8	-	2	1	2	46
88	Prisoners under arrest or awaiting trial	33	8	-	1	1	3	46
89	Prisoners under arrest or awaiting trial	31	10	-	1	1	3	46
90	Prisoners under arrest or awaiting trial	39	3	-	-	1	3	46
91	Prisoners under arrest or awaiting trial	25	8	1	2	7	3	46
92	Prisoners under arrest or awaiting trial	37	5	-	-	1	3	46
93	Prisoners under arrest or awaiting trial	36	5	-	-	1	4	46
	(d) Civil prisoners							
94	Civil prisoners	20	2	-	1	21	2	46

continued

Survey (continued)

Rule number	Subject	Number and type of reply: Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	Total g/
	(e) Persons arrested or imprisoned without charge							
95	Persons arrested or imprisoned without charge	16	5	-	2	22	1	46

a/ The term "implemented" means that the specific Rule is fully applied in law and in practice.

b/ The term "implemented partially" means that the specific Rule is being applied only to a limited extent. Where a country gave different answers to different subsections of a Rule, that Rule has been classified as having been implemented partially by the country if at least one subsection of the Rule was implemented partially.

c/ The term "recognized in principle", means that the sperific Rule is not being implemented but would be if circumstances permitted; for example, if prisons are overcrowded, the accommodation of prisoners in single rooms may be impossible.

d/ The term "not implemented" means that there is no intention at present of implementing the particular Rule.

e/ The term "not applicable" means that the Rule does not apply in the prevailing circumstances (for example, when the law does not permit imprisonment for debt).

f/ This category includes some responses that did not reveal the extent of the implementation of a particular Rule.

g/ Three of the 49 countries taking part in the survey did not provide information for this tabular summary.

Rule 8 (Separation of categories)

57. Rule 8 requires that different categories of prisoner be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Almost all the countries reported adherence to this Rule. Over 40 per cent were unable to apply it fully, however, mainly for budgetary and economic reasons and because of overcrowding. Three countries said that their infrastructure was inadequate for the purpose. Several countries pointed out that while they were able to detain men and women in separate institutions and to keep young prisoners separately from adults, they could not always keep untried prisoners separately from convicted prisoners.

Rules 9-14 (Accommodation)

58. Rules 9-14 include requirements in respect of single-cell occupancy and the careful selection of prisoners located in dormitories (Rule 9); health standards, space, lighting, heating and ventilation (Rule 10); the provision of adequate lighting in all places where prisoners live and work (Rule 11); sanitary installations (Rule 12); bathing and shower facilities (Rule 13); and maintenance and cleanliness of the institution (Rule 14).

59. About half of the countries reported that Rule 9 was not fully implemented, mostly for budgetary and economic reasons. Three countries in one region indicated that their infrastructure was inadequate and several countries pointed out that overcrowding was a significant factor. Five countries also mentioned technical reasons, such as the distribution of space within their institutions. But only three countries did not indicate their intention of implementing the Rule.

60. By contrast, over two thirds of the countries indicated that Rule 10 was fully implemented and at least three quarters gave a similar answer in respect of Rules 11-14. Non-adherence to any of these Rules was confined to two countries. The reasons given for less than full implementation were invariably associated with budgetary, economic or infrastructural difficulties; two countries mentioned technical reasons for the incomplete implementation of Rules 12-14 and two (from the same region) mentioned cultural reasons in respect of Rules 12 and 13.

Rules 15-16 (Personal hygiene)

61. Rule 15 requires that prisoners shall keep themselves clean and be provided with water and the necessary toilet articles to enable them to do so. Rule 16 requires that prisoners shall be enabled to maintain a good appearance, compatible with their self-respect, by the provision of facilities for the proper care of the hair and beard and by being enabled to shave regularly.

62. All the countries reported their adherence to Rule 15 and over 80 per cent reported its full implementation. Budgetary, economic and infrastructural difficulties were given as reasons by those countries that were unable to implement it fully. Rule 16 was adhered to by all but one country and over 85 per cent of the countries reported its full implementation. Budgetary and economic difficulties were again given as reasons by the few countries that were unable to implement it fully.

Rules 17-19 (Clothing and bedding)

63. Rules 17-19 include requirements in respect of the use of suitable and clean clothing (Rules 17-18) and the provision of a separate bed and clean bedding (Rule 19). All these Rules were fully implemented by 80-85 per cent of the countries and non-adherence to any of them was confined to two countries. Budgetary and economic reasons were again given by almost all the countries that reported less than full implementation.

Rule 20 (Food)

64. Rule 20 requires that prisoners shall be provided at regular hours with nourishing, wholesome food that is well prepared and served, and with drinking water whenever it is needed. All the countries reported their adherence to this Rule and the eight (18 per cent) that were unable to implement it fully mentioned budgetary and economic reasons.

Rule 21 (Exercise and sport)

65. Rule 21 requires that every prisoner not employed in outdoor work shall have at least one hour of suitable open-air exercise daily, and that young prisoners and others shall receive physical and recreational training during the period of exercise. All the countries reported adherence to this Rule and over 70 per cent of them reported its full implementation. The remaining 30 per cent mentioned budgetary, economic and technical difficulties as obstacles.

Rules 22-26 (Medical services)

66. Rule 22 includes requirements in respect of the availability of qualified medical officers with some knowledge of psychiatry (Rule 22 (1)); the transfer to specialized institutions or civil hospitals of sick prisoners requiring specialist treatment (Rule 22 (2)); and the services of a qualified dental officer (Rule 22 (3)). Only one country did not report an intention of implementing Rule 22, but more than a quarter of the countries were unable to implement it fully for budgetary or economic reasons. Two countries also mentioned technical reasons and one country referred to a general shortage of medical personnel.

67. Rule 23 includes requirements that special arrangements be made for women prisoners to receive pre-natal and post-natal treatment, for children to be born outside prison whenever possible and for the provision of a nursery to be made available for infants who are allowed to remain in the institutions with their mothers. Adherence to Rule 23 was almost total, but nearly one third of the countries were unable to implement it fully. Budgetary and economic reasons were again dominant; two countries also mentioned technical reasons.

68. Rule 24 includes requirements in respect of the examination of prisoners with a view to their treatment, segregation if necessary, and the noting of physical or mental defects that might hamper their rehabilitation and their physical capacity for work. Over 80 per cent of the countries reported the full implementation of Rule 24. Budgetary, economic and technical reasons were given by countries unable to implement it fully. Two countries did not report an intention of implementing it.

69. Rule 25 requires that the medical officer shall daily see and care for sick prisoners and those who complain of or seem to be suffering from illness and shall report to the director if it seems that imprisonment has affected or

will affect a prisoner's health. Over 75 per cent of the countries reported full implementation of Rule 25. Budgetary and economic difficulties and the shortage of medical personnel were the main obstacles. Two countries did not report an intention of implementing it.

70. Rule 26 requires the medical officer to advise the director on matters associated with food, hygiene and cleanliness, sanitation, heating, lighting and ventilation, clothing and bedding and physical recreation. The director is required to respond to such advice. About 75 per cent of the countries reported the full implementation of Rule 26. Budgetary and economic difficulties and, in two cases, technical reasons were reported as obstacles. Two countries did not report an intention of implementing it.

Rules 27-32 (Discipline and punishment)

71. Rules 27-30 include the requirements that discipline and order shall be maintained with firmness but with no more restriction than necessary (Rule 27); that prisoners shall not be employed in a disciplinary capacity (Rule 28); that the definition of disciplinary offences, the types and division of punishments and the authority competent to impose punishment shall all be determined by law or by the competent administrative authority (Rule 29); that a prisoner shall only be punished in accordance with such law, after being informed of the offence, and after having had a proper opportunity of conducting his defence in the course of a thorough examination of the case by the competent authority (Rule 30).

72. In respect of each of Rules 27-30, some 85-90 per cent of the countries reported their full implementation. All the countries reported adherence to Rule 27 and only two did not indicate an intention of implementing Rules 28-30. The few countries in which the Rules were only partially implemented referred to budgetary, technical and legal difficulties as obstacles.

73. Rules 31-32 prohibit corporal punishment, the placing of a prisoner in a dark cell and all cruel, inhuman or degrading punishments (Rule 31); and require that punishment by close confinement or reduction of diet or any other punishment that may be prejudicial to the health of a prisoner shall be subject to close supervision in respect of the prisoner's health by the medical officer who shall advise the director if he considers the termination or alteration of the punishment necessary on health grounds (Rule 32).

74. Only about 75 per cent of the countries reported the full implementation of Rules 31 and 32. Three did not indicate an intention of implementing Rule 31, but all reported adherence to Rule 32. In respect of Rule 31, the seven countries that reported partial implementation and the three that reported non-implementation gave mainly legal and technical reasons. One country pointed out that such punishment was rarely awarded and then only for the infliction of severe physical injury; another country reported that confinement in a dark cell was used only for extreme bad conduct and that such treatment was in accordance with the prison regulations of that country. Budgetary and technical reasons were mentioned by the countries that reported their inability to implement Rule 32 fully.

Rules 33-34 (Instruments of restraint)

75. Rules 33-34 include the requirement that instruments of restraint shall never be applied as a punishment and specify the exceptional circumstances in which they may be used (Rule 33); and require that their use shall be decided

by the central prison administration and that they shall not be applied for longer than necessary (Rule 34). Over 90 per cent of the countries reported the full implementation of both Rules and the few that were only able to implement them partially mentioned budgetary and technical reasons. All the countries reported adherence to Rule 33 and all but two to Rule 34.

Rules 35-36 (Information to and complaints by prisoners)

76. Rule 35 includes the requirement that every prisoner on admission shall be provided in writing with the information necessary to enable him to understand both his rights and his obligations. Rule 36 includes requirements in respect of providing prisoners with proper opportunities of making requests or complaints and for having them dealt with and replied to without undue delay. All the countries reported adherence to Rule 35 but nearly a quarter were unable to implement it fully, giving mainly technical reasons for the discrepancy. Over 90 per cent of the countries reported full adherence to Rule 36. The two countries that reported partial implementation mentioned budgetary and technical reasons. One other country explained that a lack of resources and infrastructure were responsible for its inability to implement Rule 36.

Rules 37-39 (Contact with the outside world)

77. Rules 37-39 include the requirements that prisoners shall be allowed to communicate with their family and reputable friends at regular intervals (Rule 37); that foreign nationals shall be allowed to communicate with the official representatives of their States (Rule 38); and that prisoners shall be kept informed regularly of the more important items of news (Rule 39). All the countries reported adherence to these Rules and almost all reported full implementation. Economic reasons were given by three countries that were only able to implement Rule 39 partially.

Rule 40 (Books)

78. Rule 40 requires that every institution shall have an adequately stocked library and that prisoners shall be encouraged to make full use of it. All countries reported adherence to this Rule but nearly a quarter were unable to implement it fully, invariably for budgetary and economic reasons.

Rules 41-42 (Religion)

79. Rules 41-42 include requirements relating to the need for prisoners to have access to qualified representatives of their religion (Rule 41); and to enable prisoners as far as practicable to satisfy the needs of their religious life (Rule 42). All the countries reported adherence to these Rules. Over 80 per cent of them reported full implementation and in countries where this had not been achieved, legal, social, cultural and technical reasons were mentioned.

Rule 43 (Retention of prisoners' property)

80. Rule 43 includes requirements for the safekeeping and eventual return of all prisoners' property that under the regulations of the institution may not be retained during the period of imprisonment. All but two countries reported full implementation, one of them mentioned economic difficulties as an obstacle. The other did not indicate its intention of implementing the Rule.

Rule 44 (Notification of death, illness, transfer etc.)

81. Rule 44 includes requirements for the immediate notification of next of kin or other person previously designated by the prisoner in the case of his death, serious illness or removal to an institution for mental treatment, and for the immediate notification of the prisoner of the death or serious illness of any near relative. The Rule also requires that a prisoner shall have the right to notify his family at once of his imprisonment or transfer to another institution. All the countries reported adherence to this Rule and almost 90 per cent of them reported full implementation. The other countries mentioned economic, geographical, legal and technical difficulties as obstacles.

Rule 45 (Removal of prisoners)

82. Rule 45 includes requirements for the privacy of prisoners and the circumstances of transport during their removal to or from an institution. All the countries reported adherence to the Rule and all but two reported full implementation; economic and technical reasons were the main obstacles.

Rules 46-54 (Institutional personnel)

83. Rules 46-54 include requirements in respect of the selection and motivation of institutional personnel (Rule 46); their education and training (Rule 47); their conduct in the performance of their duties (Rule 48); the provision of specialists (Rule 49); the qualities, training and experience of the director and certain aspects of the performance of his duties (Rule 50); the capacity of institutional personnel to converse with prisoners in their own language (Rule 51); the ready availability of medical personnel (Rule 52); the employment of women officials in the case of women prisoners and the circumstances in which male members of staff may be present in the part of an institution set aside for women (Rule 53); and the use of force and the carrying of arms (Rule 54).

84. Almost all the countries reported adherence to all these Rules but there was considerable variation in the extent to which they were implemented. Rules 51 and 54 were reported as fully implemented by almost all the countries, but Rules 52 and 53 by only some 60 per cent and 75 per cent of the countries, respectively. The obstacles in respect of all the Rules concerning institutional personnel were budgetary, economic and technical.

Rule 55 (Inspection)

85. Rule 55 includes the requirement that there shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Over 85 per cent of the countries reported full implementation of this Rule. Economic and legal reasons were mentioned by countries unable to implement it fully. Only two countries did not report an intention of implementing this Rule.

Rules applicable to special categories

(a) Prisoners under sentence

Rules 56-64 (Guiding principles)

86. After Rule 56, which is an introductory paragraph, Rules 57-64 include requirements that the prison system shall not aggravate the suffering inherent

in a situation that deprives a person of his liberty (Rule 57); that the period of imprisonment shall be used as far as possible to prepare the prisoner for a law-abiding and self-supporting return to society (Rule 58); that to this end remedial, educational, moral, spiritual and other forms of assistance should be utilized and applied according to the individual treatment needs of prisoners (Rule 59); that differences between prison life and life at liberty should be minimized in so far as they tend to lessen the responsibility or self-respect of prisoners (Rule 60 (1)); that steps should be taken to ensure for the prisoner a gradual return to life in society (Rule 60 (2)); that the treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it (Rule 61); that medical services shall seek to detect and treat any illnesses or defects that may hamper a prisoner's rehabilitation (Rule 62); that there shall be individualization of treatment, classification of prisoners, varying degrees of security, numbers small enough in any institution to permit individualization of treatment but not so small that proper facilities cannot be provided (Rule 63); and that there should be agencies capable of lending the released prisoner efficient after-care (Rule 64).

87. All the countries reported their adherence to Rules 57-61 and 85-90 per cent of them reported the full implementation of them. The others mentioned economic difficulties as obstacles. Almost all the countries reported their adherence to Rules 62-64 but there were variations in their ability to implement them fully. Over 80 per cent of them reported the full implementation of Rule 62; the other 20 per cent referred to economic difficulties as obstacles. Less than 70 per cent, however, reported the full implementation of Rule 63. Again, budgetary and economic difficulties were the main obstacles but legal and technical difficulties were also mentioned by several countries. Similar reasons were given by countries reporting less than the full implementation of Rule 64. Almost 80 per cent of the countries, however, reported its full implementation.

Rules 65-66 (Treatment)

88. Rules 65-66 include requirements that the purpose of the treatment given to prisoners shall be to help them to lead law-abiding and self-supporting lives after their release and to encourage their self-respect and develop their sense of responsibility (Rule 65); and that to these ends a variety of means shall be used, and full reports prepared and conveniently filed on the individual needs of each prisoner (Rule 66).

89. All the countries reported adherence to these Rules: over 90 per cent of them reported full implementation of Rule 65 and over 75 per cent full implementation of Rule 66. Budgetary and technical difficulties were given as obstacles; two countries mentioned that overcrowding precluded the full implementation of Rule 66.

Rules 67-69 (Classification and individualization)

90. Rules 67-69 state the purposes of classification (Rule 67); require the separation as far as possible of different classes of prisoner for the purposes of treatment (Rule 68); and require that a programme of treatment shall be prepared for each prisoner in the light of his individual needs, capacities and dispositions (Rule 69). These three Rules were reported as fully implemented by 70-80 per cent of the countries. The reasons given for being unable to implement them fully were invariably budgetary, economic and technical. Two countries did not indicate an intention of implementing Rules 67 and 68.

Rule 70 (Privileges)

91. Rule 70 requires that systems of privileges shall be established at every institution. Almost 85 per cent of the countries reported f l implementation. Two countries gave technical reasons for its partial impleme ation, while three countries indicated that they did not adhere to this Rule.

Rules 71-76 (Work)

92. Rules 71-76 include requirements in respect of the nature and purpose of prison work (Rule 71); the methods of work and its profitability (Rule 72); the operators of institutional industries and farms (Rules 73); health and safety precautions (Rule 74); the hours of work (Rule 75); and the system of remuneration (Rule 76).

93. About two thirds of the countries reported the full implementation of Rule 71 and almost one third reported partial implementation. Budgetary, economic and technical difficulties were given as obstacles; one country specifically mentioned the lack of tools. Several countries indicated that it was only one of the subsections of Rule 71 that they did not implement fully: usually either Rule 71 (2), which indicates that all physically and mentally fit prisoners shall be requested to work, or Rule 71 (3), which requires sufficient work of a useful nature to be provided to keep prisoners actively employed for a normal working day. One country did not indicate an intention of implementing this Rule.

94. About 80 per cent of the countries reported the full implementation of Rules 72 and 73; the other 20 per cent mentioned budgetary, economic and technical difficulties as obstacles. A similar percentage of the countries reported the full implementation of Rules 74 and 75 but in this case legal reasons were given as the explanation for the partial implementation. In respect of Rules 74 and 75, an intention of implementation was not indicated by two and three countries, respectively. Only two thirds of the countries reported the full implementation of Rule 76; budgetary reasons were invariably given as obstacles.

Rules 77-78 (Education and recreation)

95. Rules 77-78 include requirements that provision shall be made for the further education of all prisoners capable of profiting thereby (Rule 77); and that recreational and cultural activities shall be provided in all institutions (Rule 78). All the countries reported adherence to these Rules and between 80 and 90 per cent of them reported full implementation; budgetary and economic difficulties were mentioned by those countries whose implementation was only partial.

Rules 79-81 (Social relations and after-care)

96. Rules 79-81 include requirements concerning the maintenance and improvement of relations between a prisoner and his family (Rule 79); the maintenance or establishment of relations with persons or agencies that may promote the best interests of his family and his own social rehabilitation (Rule 80); and the provision on his release from prison of suitable documentation, accommodation, employment, clothing and sufficient means (Rule 81 (1)).

97. All the countries reported adherence to Rules 79 and 80, and 90 per cent of the countries reported full implementation; economic, geographical and legal reasons were given as obstacles by 10 per cent of the countries. Only 75 per cent of the countries reported the full implementation of Rule 81. Three countries did not report an intention of implementing this Rule.

(b) Insane and mentally abnormal prisoners

Rules 82-83

98. Rules 82-83 require that insane prisoners shall not be detained in prisons and that other mentally abnormal prisoners shall be observed, treated and supervised under medical management (Rule 82); and that steps should be taken where possible to arrange for the continuation of psychiatric treatment and specialized after-care following release (Rule 83). Almost all the countries reported adherence to these Rules but only about 75 per cent reported full implementation. Budgetary and economic difficulties were mentioned as obstacles to full implementation; some countries also mentioned legal reasons.

(c) Prisoners under arrest or awaiting trial

Rules 84-93

99. Rules 84-93 include the requirements that unconvicted prisoners shall be presumed and treated as innocent and that untried prisoners shall benefit from a special régime (Rule 84); that they shall be kept separate from convicted prisoners, and that young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions (Rule 85); that, subject to local custom in respect of the climate, untried prisoners shall sleep singly in separate rooms (Rule 86); that within certain limits they may have their food procured at their own expense from outside the prison (Rule 87); that they shall wear their own clothing or clothing different from that of convicted prisoners (Rule 88); that they shall be offered the opportunity of working but shall not be required to work (Rule 89); that they may acquire books, newspapers, writing materials etc. at their own expense (Rule 90); that they may, subject to certain conditions, be visited and treated by their own doctor or dentist (Rule 91); that they may inform their families immediately of their detention and, subject to certain conditions, that they may communicate with, and receive visits from, their families and friends (Rule 92); and that appropriate arrangements shall be made for them to receive legal advice and, where available, free legal aid (Rule 93).

100. Over 80 per cent of the countries reported the full implementation of Rule 84; the reasons for partial implementation were budgetary, economic and technical and a lack of infrastructure. Rule 85 was fully implemented by only about half of the countries, and four countries did not indicate their adherence to the Rule. Budgetary, economic and technical difficulties and the lack of infrastructure were again mentioned obstacles.

101. While over half of the countries reported the full implementation of Rule 85 (and of Rules 87-93), only a quarter reported the full implementation of Rule 86, which reveals a different pattern of responses to those in respect of all the other Rules. A further quarter of the countries reported only partial implementation of Rule 86 and another quarter reported recognition of the Rule in principle. As many as six countries did not indicate an intention of implementing this Rule, almost all of them pointing to budgetary or economic factors as the main obstacle.

102. About three quarters of the countries reported the full implementation of Rules 87-88. The other countries mentioned legal and technical reasons as obstacles. A similar proportion reported the full implementation of Rule 89; budgetary and economic difficulties were as important as legal and technical ones in the explanation of partial implementation by the other countries. Rule 90 was reported as fully implemented by over 90 per cent of the countries; 10 per cent gave budgetary and technical difficulties as obstacles.

103. Seven countries reported that Rule 91 was inapplicable. It was fully implemented, however, in two thirds of the other countries. Legal and social difficulties were mentioned as obstacles. About 85 per cent of the countries reported the full implementation of Rules 92 and 93; partial implementation was attributed to budgetary, technical and legal reasons.

(d) Civil prisoners

Rule 94

104. Rule 94 requires that prisoners imprisoned for debt or under any non-criminal court order shall be subjected to conditions no less favourable than untried prisoners except that they may be required to work. Almost half of the countries reported that, in their countries, this Rule was not applicable as their national laws did not permit such imprisonment. Almost all the other countries reported the full implementation of the Rule.

(e) Persons arrested or imprisoned without charge

Rule 95

105. Rule 95 requires that persons arrested or imprisoned without charge shall be accorded the same protection as prisoners under sentence and prisoners under arrest or awaiting trial. Almost 50 per cent of the countries indicated that this Rule was not applicable to their prison systems since they did not have such a special category of prisoners. A further 35 per cent reported the full implementation of the Rule; economical, legal, social and technical difficulties were mentioned by the other countries as obstacles. Two countries did not indicate an intention of implementing this Rule.

IV. FUTURE ACTION

A. Ways of ensuring more effective implementation of the Rules

106. Some replies to the survey offered suggestions for promoting implementation at the national, regional and international level. The importance of carrying out national reviews or revisions of existing penal codes, providing greater resources and improving training for prison staff was underlined. At the regional level, it was proposed that formal networks should be established to facilitate the dissemination of information and the co-ordination of strategy and practice. At the international level, major international conferences were considered to be valuable forums for reviewing implementation and examining good practices. It was suggested that an international body to inspect prisons and to offer advice should be created.

107. The results of the present survey are in some respects reassuring. The strong support for the Rules, which was expressed in the replies of all the countries, and the care and effort that had clearly been devoted to the preparation of the replies, demonstrate a high level of commitment to the

objectives of the Rules. Furthermore, some progress is noticeable concerning exercise and sport, medical services, classification and individualization, as well as social relations and after-care.

108. Despite these positive features, however, there are still serious grounds for concern. For example, less than one third of the Member States replied to the survey, which means that the picture presented by the present report is still incomplete, a quarter of a century after the adoption of the Rules by the First Congress. While 18 countries that did not participate in the previous survey replied this time, 27 countries that had replied to the previous survey did not participate this time; the reliability of comparisons between the two surveys is consequently reduced so that there can be no certainty that progress is being made either consistently or in each country. Furthermore, over one third of the entire membership of the United Nations has never provided any reply on the implementation of the Rules.

109. Another factor that makes it difficult to measure progress between the surveys is the possibility that the Governments' perceptions of their performance in implementing the Rules may not be shared by other observers and that some of those completing the replies may be using slightly different criteria from the others. In fact, there was evidence that some countries were adopting a more stringent definition of what constituted full implementation. Thus an unbiased observer might have concluded that one country reporting partial implementation of a particular Rule had in fact implemented that Rule more fully than another country that reported full implementation. Such inconsistency reduces the extent to which the survey is a true mirror of international practice.

B. Recommendations for future surveys

110. In the light of the experience with the present and past surveys and the suggestions of some Governments, the Eighth Congress may wish to make the following recommendations with respect to future surveys:

(a) The role of the Committee on Crime Prevention and Control should be strengthened to enable it to function as the monitoring body for the Standard Minimum Rules and to assist the General Assembly, the Economic and Social Council and other United Nations bodies with recommendations on the application of the Rules in accordance with the Procedures for the Effective Implementation of the Rules;

(b) Arrangements should be made to enable countries to be referred to for the purposes of clarifying any replies where there could be uncertainty in interpretation. National correspondents may be the appropriate points of reference, but contacts will often be needed with the person directly responsible for the reply and with the prison authorities, through ministries, in accordance with the Procedures for the Effective Implementation of the Rules;

(c) Consideration should be given to ways of ensuring that the replies are consistent and reliable.* This goal will be partly achieved if Governments can make their explanations of the extent to which they implement the Rules

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*See, also, the working paper prepared by the Secretariat on United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard-setting (A/CONF.144/18).

more intelligible. It would also help invaluably if independent observers were invited to assist in the interpretation of the replies when they have been received;

(d) Member States should be encouraged to make all efforts to implement the Rules and to contribute to the quinquennial surveys, in accordance with General Assembly resolutions 2858 (XXVI) and 3144 B (XXVIII). It may be recalled that the First Congress, having adopted the Rules, had expressed the hope that

> "the United Nations would provide technical assistance to those Governments requesting it, either in the form of sending experts needed or by helping in the establishment of institutions for the training of personnel or by the organization of seminars or by the publication of guides or handbooks to facilitate the application of the Standard Minimum Rules and the training of personnel." 2/

(e) A small group of experts could be established and charged with the task of improving the quality of the surveys. The group should be able to do further work, if necessary, on the analysis of the replies to past surveys, thus paving the way for the consideration of priority areas for closer study in the next survey. The group should be established as soon as possible, in view of the amount of work to be done before the request for information for the next survey is sent to Governments in 1993.

Notes

1/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August to 6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.

2/ First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August to 3 September 1955 (United Nations publication, Sales No. 1956.IV.4), chap. II, sect. F.